

HAQJSEA1

Kalter - direct

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 467 ALC

5 NORMAN SEABROOK AND MURRAY HUBERFELD,

6 Defendants.

7 -----x

8
9
10 October 26, 2017
11 9:00 a.m.

12
13 Before:

14 HON. ANDREW L. CARTER, JR.,

15 District Judge
16 and a jury

17
18 APPEARANCES

19 JOON H. KIM,
20 United States Attorney for the
21 Southern District of New York
22 KAN MIN NAWADAY,
23 MARTIN S. BELL,
24 RUSSELL CAPONE,
25 Assistant United States Attorneys

HAQJSEA1

Kalter - direct

APPEARANCES (Continued)

BRACEWELL, LLP,
Attorneys for defendant Seabrook
BY: PAUL LEWIS SHECHTMAN, Esq.
MARGARET EMMA LYNAUGH, Esq.
Of counsel

MAZUREK LIPTON, LLP
Attorneys for defendant Huberfeld
BY: HENRY EDWARD MAZUREK, Esq.
EVAN LOREN LIPTON, Esq.
Of counsel

Also Present:
BARD HUBBARD, Special Agent FBI
YOLANDA BUSTILLO, Paralegal USAO
AUGUSTA GRANQUIST, Paralegal

(Trial resumes)

(In open court; jury not present)

THE COURT: Please be seated. Are all the parties
here?

MR. BELL: We are, your Honor. I don't see Mr.
Shechtman, but he is outside.

MS. LYNAUGH: He is out in the hallway.

(Pause)

MR. BELL: We are also looking for the witness, your

HAQJSEA1

Kalter - direct

1 Honor.

2 THE COURT: Okay.

3 MR. BELL: Oh, the witness is here.

4 (Pause)

5 THE COURT: So the witness is outside, I take it?

6 Let me just find out from counsel if there is anything
7 counsel need to address before this witness resumes the stand?

8 MR. SCHECHTMAN: Not from us, your Honor.

9 MR. MAZUREK: No, your Honor.

10 THE COURT: Let me just find out in terms of
11 housekeeping and schedules for today. I know counsel had
12 discussed yesterday the possibility of coming to some sort of
13 stipulation regarding the NYPD captain. Where are we with
14 that?

15 MR. BELL: We are going to call him, but he will be
16 brief.

17 THE COURT: Okay. When you say "brief," like how
18 brief is brief?

19 MR. BELL: Briefer than the second witness yesterday.
20 He should be about 10 to 15 minutes on direct tops.

21 THE COURT: How long is the anticipated cross of that
22 witness?

23 MR. SHECHTMAN: There should be no further questions.

24 MR. MAZUREK: I will not John Coltrane on the captain.

25 THE COURT: So we'll wait for the jury to get here.

HAQJSEA1

Kalter - direct

1 As soon as they're here, we will start. I will be back when
2 the jury gets here.

3 (Recess)

4 THE COURT: Okay. They're here. Let's bring the jury
5 in and have the witness retake the seat.

6 (Jury present)

7 THE COURT: Please be seated. Let's continue with the
8 case on trial. Welcome back. Go ahead, counsel.

9 GILAD KALTER, resumed.

10 DIRECT EXAMINATION (continued)

11 BY MR. CAPONE:

12 Q. Good morning, Mr. Kalter.

13 A. Good morning.

14 Q. When we left off yesterday, we were talking about
15 Centurion, which I think you testified was a hedge fund started
16 by Mr. Huberfeld for which you started working full time around
17 2007?

18 A. Correct.

19 Q. I think you testified that that still was in the same
20 building as the other fund, the PPVA?

21 A. Correct.

22 Q. Can you remind us what Mr. Huberfeld's role and
23 responsibilities were at Centurion.

24 A. Sure. He was the general partner and I think his title was
25 the chairman and chief investment officer, and his

HAQJSEA1

Kalter - direct

1 responsibilities were everything, to run the firm and make
2 major investment decisions and things like that. We reported
3 to him.

4 Q. Based on your experience there, are you aware of whether
5 he, either directly or indirectly, had money invested in
6 Centurion?

7 A. Yes, he did.

8 Q. We also started talking yesterday about management fees.
9 In fact, I think that is exactly where we broke.

10 If you don't mind explaining again what management
11 fees are and how they were structured in your experience at
12 Platinum.

13 A. Sure. A management fee is a fee that the investment
14 manager charges the investors in a hedge fund. It is a
15 fixed -- it is typically a fixed percentage fee, and in the
16 Centurion case, it was a 2 percent fee, and it would be 2
17 percent of the value of the portfolio on a yearly basis, and it
18 would be paid monthly throughout the course of the year to the
19 management company.

20 Q. So on a \$10 million investment, would that be a \$200,000
21 fee annually?

22 A. Yes.

23 Q. Are there also fees based on profits that are made on an
24 investor's investment?

25 A. Yes.

HAQJSEA1

Kalter - direct

1 Q. Generally speaking, what were those fees, in your
2 experience, at both Centurion and Platinum?

3 A. I believe what you're referring to is the performance fee
4 or the incentive allocation, and they were 20 percent was the
5 fee, and that would be in the event that the firm was
6 profitable, the investments were successful, and on an annual
7 basis at the end of the year you would look back how much you
8 made, how much profit was generated. You would take that
9 amount of profit, and 20 percent of that amount would be paid
10 to one of the management entities.

11 Q. And 80 percent to the investor?

12 A. Correct.

13 Q. In terms of Centurion, are you aware of who at Centurion
14 split the management fees?

15 A. Yes.

16 Q. Who was that?

17 A. It was Mr. Huberfeld and myself and a trust of
18 Mr. Huberfeld's.

19 Q. What was the breakdown, if you recall?

20 A. It was 95 percent of the points in the company were between
21 Mr. Huberfeld and his trust, and 5 percent was to me.

22 Q. So that is talking about the money coming in and the
23 profits. How about what Centurion was investing that money in,
24 what types of assets or securities was Centurion investing in?

25 A. The investment strategy at Centurion was asset-based

HAQJSEA1

Kalter - direct

1 lending strategy which means that the private deals were being
2 done with the capital, loans mostly, and the investment idea
3 was that we would lend money against some sort of collateral
4 that the borrower was able to pledge to us.

5 In the event of a default, we would pursue the
6 collateral to recoup our investment and any profits owed to us,
7 and the remainder of that value of the collateral, once sold or
8 liquidated, would go back to the borrower.

9 Q. If there was no default, how would Centurion be compensated
10 based on those loans?

11 A. Typically by an interest piece. Sometime there would be an
12 equity kicker, but generally by an interest-bearing loan.

13 Q. Can you give us an example of a type of loan that Centurion
14 would make with investors' money?

15 A. Sure. In the early days one of the strategies was a real
16 estate lending strategy. I think it is the simplest to
17 explain, and it was simply somebody had a borrower come with a
18 piece of collateral real estate, they would ask for a
19 short-term loan, the building would serve or the -- whatever it
20 was, whatever the real estate was would serve as collateral
21 that we would attach ourselves to, and they would pay some rate
22 of interest to us on a monthly, quarterly, annual, however the
23 loan was structured, basis similar to a mortgage you would get
24 at a bank, except the rate would be a little higher and the
25 term would be a little shorter.

HAQJSEA1

Kalter - direct

1 Q. Were there other types of loans in addition to real estate?

2 A. Yes.

3 Q. Was your role to identify the different loans to make?

4 A. No.

5 Q. Whose role was that principally?

6 A. Mr. Huberfeld and others at the firm, other portfolio
7 managers.

8 Q. I think you testified yesterday that your role was more on
9 the operations side?

10 A. Correct.

11 Q. Keeping the business running?

12 A. Correct.

13 Q. At some point while you were working in Centurion, did you
14 begin taking on any additional roles?

15 A. Yes. There was some deals, loans that I did work on and
16 assist portfolio managers, assist Mr. Huberfeld with, and in
17 addition to that, I started taking on a marketing role as it
18 related to the Centurion fund.

19 Q. What is involved in marketing?

20 A. The goal of a marketing department is to raise capital for
21 the hedge fund so that they have more capital to invest. In
22 that role, I would meet with prospective investors, attend
23 industry conferences and talk to them about the fund.

24 Q. When you met with prospective investors, is that something
25 you sometimes referred to as a pitch?

HAQJSEA1

Kalter - direct

1 A. Yes.

2 Q. How did you start getting involved in pitches at Centurion?

3 A. Mr. Huberfeld initially would do the pitch, and at some
4 point he asked me to start attending some of those meetings. I
5 learned how to do the pitch.

6 Q. Did pitches also involve written materials?

7 A. It depends on who's pitching, but it could.

8 Q. What type of or types of written materials are sometimes
9 used?

10 A. So typically there could be a marketing presentation, there
11 could be a longer version, a shorter version, there could be
12 like a one-page document or, I don't know, 10-to-20 page
13 document, and those sometimes are used in meetings or just, you
14 know, for follow-up and whatnot.

15 Q. Now, at the time that you were working at Centurion, what,
16 if you know, was your brother-in-law, Mr. Nordlicht doing?

17 A. Any specific period?

18 Q. Let me rephrase the question. You testified earlier that
19 you moved on from the PPVA to Centurion over the course of 2005
20 to 2007. For the next couple of years while you were at
21 Centurion was Mr. Nordlicht still running the PPVA?

22 A. Yes.

23 Q. Did there come a time when Centurion and the PPVA merged
24 under a single entity?

25 A. Yes.

HAQJSEA1

Kalter - direct

1 Q. Around when was that?

2 A. It was the beginning of 2011.

3 Q. In what way did it merge, if you can describe that for us.

4 A. So PPVA and PPCO were two totally separate funds.

5 Q. You just said PPCO for the first time, if you can explain
6 that?

7 A. I am sorry. Centurion and PPVA were two separately managed
8 funds and businesses. In 2011 Mr. Huberfeld stepped off as the
9 chairman and chief investment officer and general partner of
10 Centurion, and Mr. Nordlicht assumed that role, and the
11 Centurion fund was renamed PPCO, Platinum Partners Credit
12 Opportunities Fund, and it became part of the Platinum Partners
13 family of funds.

14 Q. And Mr. Nordlicht was in charge of both at that point?

15 A. Yes, he assumed Mr. Huberfeld's role; and, therefore, he
16 was in charge.

17 Q. What happened that led to this, to the extent you're aware
18 that led to this change?

19 A. I think synergistically it made sense to have the two back
20 offices start coming together and minimizing the need for
21 duplicative roles. I think it brought Platinum to a larger
22 critical mass and size that would help it come to the next
23 level of AUM, assets under management, basically the size of
24 your hedge fund in dollars.

25 Those things led to the restructuring, I guess we can

HAQJSEA1

Kalter - direct

1 call it, or the merger.

2 Q. The different funds were now under a single company, for
3 lack of a better word, that was called Platinum Partners?

4 A. Yeah. I think the term Platinum Partners is not a legal
5 entity, so to speak. I think it is a name that refers to all
6 the different funds such as PPVA, PPCO, et cetera, et cetera,
7 that were under this umbrella, so to speak.

8 Q. Were there other funds in addition to PPVA and PPCO?

9 A. Yes.

10 Q. Were those two, nonetheless, two of the biggest funds
11 within Platinum?

12 A. Can you repeat that.

13 Q. Were PPVA and PPCO, nonetheless, two of the biggest funds
14 within Platinum?

15 A. Yes.

16 Q. Did the company continue at that point, after the merger in
17 2011 to work out of the Carnegie Hall Tower?

18 A. Yes.

19 Q. Did you stay on after the merger?

20 A. Yes.

21 Q. What was your title and role at that point?

22 A. The same as earlier, chief operating officer, and I was, in
23 addition to the responsibilities of the COO role, spending more
24 and more time on the marketing effort and slowly less and less
25 time on the operational side.

HAQJSEA1

Kalter - direct

1 Q. You testified a moment ago that after this merger, Mr.
2 Huberfeld stepped away from the general partner role of
3 Centurion or PPCO, and what role, if any, did he continue to
4 play after the entities merged?

5 A. After the entities merged, at the very beginning Mr.
6 Huberfeld was needed for some legacy positions, and him and he
7 would help if asked by Mark Nordlicht, and he would also
8 continue to refer investors that might be interested in
9 Platinum to the marketing team or just to me to go like you
10 used the term before, pitch.

11 Q. Did he continue to refer investors to you for pitches
12 throughout, say, 2014?

13 A. Sometimes. It didn't always come to me.

14 Q. To Platinum?

15 A. My belief, my understanding is yes.

16 Q. Based on your position at Platinum after the merger, are
17 you aware of whether Mr. Huberfeld, again directly or
18 indirectly, had money invested in the funds?

19 A. Yes, he did.

20 Q. In what ways was the money invested in, personally or
21 through some other means?

22 A. Mr. Huberfeld had some entities. He had some accounts for
23 his children. His father, may he rest in peace, had accounts,
24 some charitable accounts. That is what I can recall.

25 Q. Do you remember any of the family members' names whose

HAQJSEA1

Kalter - direct

1 accounts were in the funds?

2 A. Yes.

3 Q. What were those?

4 A. Okay. There was White Star, which was an entity that Mr.
5 Huberfeld and some other people invested with. His children
6 had accounts in their names.

7 Q. What were those names that you remember?

8 A. I may butcher this, but you had the Jessica Huberfeld
9 account, an Ariela, Rachel Huberfeld account, you had an
10 Alexander Huberfeld account, and Ariela Huberfeld account, and
11 I am not certain about any others.

12 Then there was Mr. Huberfeld's father's account, I
13 don't remember the name offhand, and there were two Huberfeld
14 foundations. One was Mr. Huberfeld and one was Mr. Huberfeld,
15 Sr., I believe, and I think it was called the Huberfeld Family
16 Foundation.

17 Q. A few moments ago we spoke about management fees.

18 Based on your position at Platinum, are you aware of
19 whether, after stepping off of the general partner role, Mr.
20 Huberfeld nonetheless in some way continued to share in
21 management fees from the funds?

22 A. Yes, he did.

23 Q. In what way did he share in the management fees?

24 A. In a passive way.

25 Q. Can you explain what you mean by that.

HAQJSEA1

Kalter - direct

1 A. Sure. Mr. Nordlicht had a trust, and the trust had certain
2 beneficiaries. An entity of Mr. Huberfeld's was one of those
3 beneficiaries.

4 Q. Do you remember the name of the entity?

5 A. Manor-something, might be Manor Associates, but I can't
6 fully remember, but it was Manor-something.

7 Q. You testified that you did operations at the new -- first
8 of all, were you more involved in PPCO or PPVA going forward?

9 A. In that time period at the merger, only PPCO. After the
10 merger, only PPCO. Pretty much my entire career there, only
11 PPCO.

12 Q. Okay. Were you involved in marketing with respect to PPCO?

13 A. Yes.

14 Q. Was there anyone else at Platinum after the merger
15 principally responsible for marketing either of the funds?

16 A. Yes.

17 Q. Who was that?

18 A. I'm not sure exactly when he joined, but his name was Uri
19 Landesman.

20 Q. Was he involved in both funds, PPCO and PPVA?

21 A. Yes. He was responsible for the marketing and investor
22 relations of all Platinum funds.

23 Q. After the merger in 2011, how long did you continue to work
24 for Platinum?

25 A. I left Platinum somewhere in the, either the middle or

HAQJSEA1

Kalter - direct

1 beginning of the third quarter of 2015.

2 Q. During that time, did the office space continue in the
3 Carnegie Hall Tower?

4 A. Sometime in the latter part of 2014 the offices moved.

5 Q. Where did they move?

6 A. They moved to 55th Street, I believe it was 250 West 55th
7 Street.

8 Q. Where within the building was the company?

9 A. It was on the 14th floor.

10 MR. CAPONE: Ms. Bustillo, if we can publish
11 Government Exhibit 659 for the witness and everyone.

12 THE COURT: Again, counsel, for housekeeping, are you
13 moving this in evidence?

14 MR. CAPONE: Yes.

15 MR. MAZUREK: No objection.

16 THE COURT: It is admitted without objection.

17 (Government Exhibit 659 received in evidence)

18 BY MR. CAPONE:

19 Q. What is this, Mr. Kalter?

20 A. This is a picture of 250 West 55th Street.

21 THE COURT: Let me check in. Do the jurors have that
22 in front of them? Okay. Go ahead.

23 BY MR. CAPONE:

24 Q. All right. So with that background on Platinum, I have a
25 few questions for you about hedge fund in general and I would

HAQJSEA1

Kalter - direct

1 like to talk about COBA specifically.

2 When an investor invests money into a hedge fund, what
3 is that called typically?

4 A. It's called an investment, but more typically a
5 subscription into your hedge fund.

6 Q. Are there documents by which an individual subscribes?

7 A. Yes.

8 Q. What are those documents called?

9 A. The subscription agreement.

10 Q. When an investor takes some or all of their money out of
11 the fund, what is that called?

12 A. That is called a redemption.

13 Q. In the process of subscribing to a hedge fund, are you
14 aware of the term onshore and offshore investments?

15 A. Yes.

16 Q. What are those?

17 A. Those would be the two different -- let's tackle them one
18 at a time. An onshore fund is a fund that's domiciled in one
19 of the 50 states in the U.S. and it accepts subscriptions from
20 U.S. tax paying investors.

21 An offshore fund is a vehicle set up in a foreign
22 jurisdiction, let's just use Cayman Islands as the easiest
23 example, and that entity accepts investors that don't live in
24 the U.S. They're domiciled somewhere outside of the U.S. or
25 they do live in the U.S. but they are not subject to taxation

HAQJSEA1

Kalter - direct

1 such as a foundation or endowment. Those would typically go
2 into an offshore vehicle.

3 Q. In the case of Platinum's funds, did both the PPVA and PPCO
4 have onshore and offshore funds?

5 A. Yes.

6 Q. Did the onshore and offshore funds merge in any way?

7 A. After 2007 at Centurion/PPCO, the onshore and offshore
8 funds, all of the capital invested would drop down into what we
9 call a master fund, and the master fund would hold everybody's
10 assets co-mingled together and make the investments.

11 Q. Did the PPVA have a similar structure?

12 A. It was different, but in respect to your last question,
13 yes, it was similar.

14 Q. Speaking about both the PPCO and the PPVA -- are you aware
15 you worked more on the PPCO side -- are you aware generally of
16 what the difference is, principal differences between the two
17 funds are?

18 A. Yes. I want to clarify. I worked entirely on PPCO side.

19 Q. Got it.

20 A. Okay.

21 Q. Are you aware of what the principal differences between the
22 funds were?

23 A. From a very high 50,000 foot level, yes.

24 Q. What were they?

25 A. The PPCO fund was, as we spoke about earlier, is a single

HAQJSEA1

Kalter - direct

1 strategy type-fund of asset-based lending. The PPVA fund was
2 structured as a multi-strategy fund which could invest in
3 almost anything, I believe. The strategy was to find the
4 strongest risk adjusted returns for investors, be it a trading
5 strategy, a private investment strategy and anything in-between
6 those two types of investments.

7 Also the volatility in the returns were higher,
8 meaning in PPVA you could have a very big up month and a very
9 big down month over the historical looking-back period whereas
10 in PPCO, the returns were very steady and, you know, not as
11 volatile.

12 Q. Okay. So now I'd like to talk about the Correction
13 Officers Benevolent Association. Are you aware of that entity?

14 A. Yes.

15 Q. How did you become familiar with it?

16 A. At some point I was asked, told that there was going to be
17 a presentation to the Correction Officers Benevolent
18 Association, and I was asked to attend that pitch and deliver
19 the PPCO portion of the presentation.

20 Q. Okay. Did you attend that pitch?

21 A. Yes.

22 Q. Do you know how COBA became a potential client in the first
23 place?

24 A. Yes.

25 Q. How did that happen?

HAQJSEA1

Kalter - direct

1 A. It was referred by Mr. Huberfeld.

2 Q. Are you aware of, based on your discussions with Mr.
3 Huberfeld and others, of who referred it to him?

4 A. Yes.

5 Q. Who is that?

6 A. Jona Rechnitz.

7 Q. At the time or around when was this?

8 A. Sometime in 2014, I believe in the early part of 2014 was
9 the presentation.

10 Q. At that time were you aware of who Jona Rechnitz was?

11 A. Yes.

12 Q. What did you know about him?

13 A. I had met him, I believe the first time I had met him was
14 years, a couple of years earlier. He was a real estate broker,
15 saw some apartments that he was showing, came across him over
16 the years on -- we lived in a similar neighborhood, attended
17 synagogues, there was overlap and would see him there, but that
18 is what I knew of him.

19 Q. What, if you know, was his relationship with Mr. Huberfeld?

20 A. Through his real estate business, Mr. Huberfeld had
21 purchased an apartment and they had become friendly.

22 Q. Had you seen him at Platinum's offices before?

23 A. Yes.

24 MR. CAPONE: Ms. Bustillo, can you publish for the
25 witness Government Exhibit 713. Your Honor I offer this in

HAQJSEA1

Kalter - direct

1 evidence as well.

2 THE COURT: Any objection?

3 MR. SHECHTMAN: No, your Honor.

4 THE COURT: It is in.

5 (Government Exhibit 713 received in evidence)

6 MR. CAPONE: Can you publish that, please.

7 BY MR. CAPONE:

8 Q. Mr. Kalter, do you recognize who this is?

9 A. Yes.

10 Q. Who is it?

11 A. Jona Rechnitz.

12 Q. Did either Mr. Huberfeld or Mr. Rechnitz go to the actual
13 pitch meeting?

14 A. No.

15 Q. Was this a meeting to present both the PPVA and the PPCO or
16 just one of them?

17 A. Both.

18 Q. I think you testified that you were there to present the
19 PPCO?

20 A. Correct.

21 Q. In advance of the meeting, did you personally send any
22 marketing materials to anyone at COBA?

23 A. I don't think so.

24 Q. Did you send any subscription materials to anyone at COBA?

25 A. I don't think so.

HAQJSEA1

Kalter - direct

1 Q. Again what are subscription materials?

2 A. Subscription materials would be the document we referred to
3 earlier, the subscription agreement, and it would also include
4 a document called a private placement memorandum or an offering
5 memorandum. Those names are pretty much based on where the
6 entities are domiciled, but they're interchangeable. Those
7 documents would typically be sent to a subscribing investor,
8 would have to be sent to a subscribing investor.

9 MR. CAPONE: Ms. Bustillo can you publish Government
10 Exhibit 1016 which I believe is in evidence already. Actually,
11 to be safe, I will move this into evidence.

12 THE COURT: Any objection?

13 MR. MAZUREK: No.

14 THE COURT: That is in.

15 (Government Exhibit 1016 received in evidence)

16 BY MR. CAPONE:

17 Q. Mr. Kalter, do you see this is an email from Joseph
18 Ritterman to Jona Rechnitz, CC Murray Huberfeld, on December
19 26, 2013?

20 A. Yes, yes. .

21 Q. Who was Joseph Ritterman?

22 A. An employee, at this time period a PPCO employee.

23 MR. CAPONE: Ms. Bustillo if we can go to the text of
24 the email.

25 BY MR. CAPONE:

HAQJSEA1

Kalter - direct

1 Q. The email reads: "Jona, please see the attached PPM and
2 subscription document for Platinum Partners credit Opportunity
3 Fund, LLC."

4 What is your understanding of what was being sent
5 here?

6 A. The documents that I just described before, the private
7 placement memorandum and the subscription document.

8 Q. For the PPCO or PPVA?

9 A. PPCO.

10 Q. Was this before or after the pitch meeting?

11 A. Before.

12 Q. In your experience, is it common to send subscription
13 paperwork to an investor before they're even pitched?

14 A. It is not the norm, but it does happen sometimes if
15 requested by an investor prior to a pitch.

16 MR. CAPONE: Ms. Bustillo, if we can put up Government
17 Exhibit 402 which is in evidence.

18 BY MR. CAPONE:

19 Q. Do you see this is an email from Joe Mann to TSR at
20 Reynolds Consulting dot com, with a number of CCs?

21 A. Yes.

22 Q. What is the date on this email?

23 A. This is January 6, 2014.

24 Q. Do you know whose email TSR at Reynolds Consulting is?

25 A. It was a consultant that was engaged by COBA.

HAQJSEA1

Kalter - direct

1 Q. Do you recall his name?

2 A. I think it was Tom or Tommy.

3 MR. CAPONE: Ms. Bustillo, if we can go to the body of
4 the emails.

5 BY MR. CAPONE:

6 Q. If you can take a look at that, Mr. Kalter, what is being
7 conveyed in this email or what is being sent to COBA?

8 A. The marketing materials for PPVA, PPCO, and another
9 Platinum fund.

10 Q. This is about 10 days after the subscription materials were
11 sent for the PPCO only?

12 A. I don't recall the exact date on the last email, but that
13 was in December and this is in January.

14 Q. Is this still before the pitch meeting that you attended?

15 A. I don't remember the date exactly of the pitch, but --

16 MR. SHECHTMAN: We'll stipulate it was before.

17 THE COURT: Okay.

18 MR. CAPONE: All right. Let's go to a couple of the
19 pages of the attachment. Ms. Bustillo, can you turn to Page
20 43.

21 BY MR. CAPONE:

22 Q. Mr. Kalter, do you recognize what this is?

23 A. Yes.

24 Q. What is it?

25 A. This is one of the marketing material documents that was

HAQJSEA1

Kalter - direct

1 referred to generally as the one-pager.

2 Q. What is a one-pager?

3 A. It's a short summary of key points that fits on one page --
4 actually, two pages because it is both sides of one page. It
5 is easier to call it a one-pager instead of two-pager.

6 Q. Is this for the PPCO?

7 A. Yes.

8 Q. Is it for the offshore or onshore part of the PPCO?

9 A. This is for the offshore and tax exempt funds.

10 MR. CAPONE: If we could, Ms. Bustillo, zoom in on a
11 chart at the bottom of the page.

12 BY MR. CAPONE:

13 Q. What is this chart show, Mr. Kalter?

14 A. This is a summary of the fund, the overall fund statistics,
15 and at the top it gives you some metrics that are very common
16 in the hedge fund and private equity fund space, and then
17 underneath that are the net monthly returns that were produced
18 by the offshore and tax exempt vehicles of PPCO.

19 Q. Earlier you spoke about volatility.

20 What do we see in terms of volatility for the PPCO
21 offshore returns?

22 A. We see that it is not that volatile. It ranges in a small
23 bandwidth.

24 Q. What is a bandwidth in terms of annually?

25 A. Okay. So you go from -- let's ignore the three months of

HAQJSEA1

Kalter - direct

1 2007 because that is not a full year's performance -- it goes
2 anywhere from on a full year 8.47 percent -- that is not a full
3 year, either. Sorry.

4 Let's just go with -- it goes as low as 9.9 for a full
5 year and it goes as high as 12.68 for the high year.

6 Q. What about in terms of monthly returns, what is the range
7 that you've seen?

8 A. I see anywhere a low month of 27.27, 27 basis points. That
9 was the first month of operations. So it probably wasn't a
10 full month, but it goes as high as -- I apologize.

11 Q. That is okay.

12 (Continued on next page)

HAQPSEA2

Kalter - Direct

1 Q. I guess you can look at the first month of 2009.

2 A. 2009?

3 Q. Yes.

4 A. There's a 2.25 percent return on that month.

5 Q. All right.

6 THE COURT: Hold on just a second, counsel. Go ahead.

7 MR. CAPONE: Thank you, your Honor.

8 Ms. Bustillo, if we could now go to Page 20.

9 Q. What do we see here, Mr. Kalter?

10 A. So this is the one-pager for the PPVA offshore fund.

11 Q. Okay. And, Ms. Bustillo, again if we could look at the
12 chart at the bottom.

13 What do we see in terms volatility here?

14 A. Well, I mean, it's much wider. You have -- on an
15 annualized basis, you have 53.25 percent in 2007, and then you
16 have, in 2008, a positive 4.37 percent year.

17 Q. And how about on a monthly basis?

18 A. That's going to take me a little bit of time.

19 Q. Do you see a number of months with negative returns?

20 A. I do. Anything in parenthesis indicates a negative return
21 for the month.

22 Q. Do you see as high, in 2007, a 5.44 percent positive
23 return?

24 A. I see that, that's June of 2007, and I see 2008 September
25 has a negative 3.41. I don't know if there's a larger than

HAQPSEA2

Kalter - Direct

1 that anywhere.

2 Q. Okay.

3 A. But those are the plus and minuses.

4 Q. All right.

5 MR. CAPONE: Ms. Bustillo, you can take that down, and
6 if you can now put up Government Exhibit 1022, which I would
7 also move into evidence.

8 THE COURT: Any objection?

9 MR. MAZUREK: No objection.

10 MR. SHECHTMAN: No objection.

11 THE COURT: Okay. That's in.

12 (Government's Exhibit 1022 received in evidence)

13 THE COURT: Hold on. Make sure the jurors have it.
14 Okay. Jury have it?

15 JURORS: No.

16 (Pause)

17 THE COURT: Okay. Go ahead, counsel.

18 BY MR. CAPONE:

19 Q. Mr. Kalter, do you recognize what this is?

20 A. Yes.

21 Q. And what is it?

22 A. It's an e-mail.

23 Q. Let's take a look at the bottom half, which it looks like
24 you were ultimately forwarded. What is going on here?

25 A. So this is an e-mail from Tommy Reynolds to Uri Landesman,

HAQPSEA2

Kalter - Direct

1 and it's January 9th, 2014, and it's talking about where, when
2 and what to bring to the COBA presentation.

3 Q. Okay. And then on the top you respond: "Is this for the
4 Monday meeting?"

5 A. Yes.

6 Q. I think you're referring to, again, the COBA presentation?

7 A. Yes.

8 Q. And who is cc'd on this top e-mail?

9 A. You have Murray, Jona and one of the executive assistants
10 at Platinum.

11 Q. Did the meeting happen shortly after this January 9th
12 e-mail?

13 A. I believe so.

14 Q. And where was it?

15 A. It was at COBA's offices at 75 Broad Street, Suite 810.

16 Q. And who went to the meeting from Platinum?

17 A. Uri Landesman, Andrew Kaplan and myself.

18 Q. And what was each of their roles, Uri Landesman and Andrew
19 Kaplan?

20 A. They were -- Uri was the president of Platinum Partners,
21 and Andrew was the chief marketing officer of Platinum
22 Partners.

23 Q. Had you guys discussed how to split up this pitch meeting?

24 A. Yes.

25 Q. And how was that?

HAQPSEA2

Kalter - Direct

1 A. They would do PPVA; I would do PPCO.

2 MR. CAPONE: Ms. Bustillo, if we could publish for the
3 witness Government Exhibit 710 and 704, side by side, and I'd
4 also move these photographs into evidence.

5 MR. SHECHTMAN: No objection, your Honor.

6 THE COURT: Okay.

7 MR. MAZUREK: Likewise.

8 THE COURT: No objection to either.

9 MR. MAZUREK: No.

10 THE COURT: Okay. Those are in. You can publish them
11 to the jury.

12 (Government's Exhibit 710 and 704 received in
13 evidence)

14 THE COURT: Does the jury have them yet? Okay. Go
15 ahead, counsel.

16 BY MR. CAPONE:

17 Q. Mr. Kalter, do you recognize the men on the left and right?

18 A. Yes.

19 Q. And who is Government Exhibit 710?

20 A. 710 is Mr. Landesman.

21 Q. And 704?

22 A. Mr. Kaplan.

23 Q. Okay. It was you and these two men who went to the pitch
24 meeting?

25 A. Yes.

HAQPSEA2

Kalter - Direct

1 Q. When you arrived at 75 Broad Street, where did you go at
2 first?

3 A. We waited in the reception area.

4 Q. And was anyone else there?

5 A. Yeah. There were other managers that were waiting as well.

6 Q. Okay. So was it your understanding that they were there
7 for the same meeting?

8 A. Same type of meeting, but not with us.

9 Q. Okay. And, Ms. Bustillo, if you could also publish
10 Government's Exhibit 652 and 656, which are already in
11 evidence, side by side.

12 Starting with the right, do you recognize Government
13 Exhibit 652?

14 A. Yes.

15 Q. And what is that?

16 A. The reception area.

17 Q. And is that where you were waiting?

18 A. Yeah, but I wasn't sitting on that couch. I was sitting on
19 the other couch.

20 Q. And how about 656?

21 A. Yes, that's the boardroom of the COBA.

22 Q. Is that where the actual meeting took place?

23 A. Yes.

24 Q. Do you remember -- if you can take us through, as best as
25 you can remember, what happened when you and Mr. Landesman or

HAQPSEA2

Kalter - Direct

1 Mr. Kaplan went into the room?

2 A. So we were called in. We walked into the room.

3 Mr. Seabrook gave us a nice shalom. There were a lot of people
4 on the COBA side, and it was the three of us. We were sitting
5 on the side of the picture closer to us, and Mr. Seabrook was
6 at the other head of the table, under the Corrections Officers'
7 Benevolent Association signage.

8 And then around the table, up and down the sides, were
9 other members of the board. The trustees? I don't know what
10 they're referred to at COBA. They were there. And I believe
11 one or both, Mr. Reynolds and COBA's outside counsel might
12 have -- were there. I remember for sure one. I don't remember
13 which one. Somebody from not the board is my recollection.

14 Q. Okay. And did you have an understanding at the time of
15 what Mr. Seabrook's role was at COBA?

16 A. Mr. Seabrook was the president.

17 Q. How did you know that?

18 A. I don't remember how I knew that, but I knew that.

19 Q. Okay. What happened after you walked in and greeted each
20 other?

21 A. We sat down and it seemed to be -- we did the pitch. It
22 was an abridged version of the pitch because we were doing two
23 different funds, two different groups, but it was the overview,
24 the first meeting-style pitch for each of PPVA and PPCO.

25 Q. And roughly how long did you each pitch for?

HAQPSEA2

Kalter - Direct

1 A. Maybe 15 minutes each was the allotted time for the
2 meeting.

3 Q. Did anyone from the COBA side have questions?

4 A. Yes.

5 Q. Do you recall what they were?

6 A. Not particularly the specific questions, but there was
7 discussion about the general terms of each fund, the key
8 statistics of each fund -- not statistic, the key terms is I
9 think the right thing, such as fees, liquidity, and then what
10 the returns were like of each separate vehicle.

11 Q. Did Mr. Seabrook speak during the meeting?

12 A. Yes.

13 Q. What was his demeanor like?

14 A. He -- his presence was he was in charge. His title was
15 true. He was the president, and it was -- it seemed that he
16 was respectful of his peers. He definitely was respectful to
17 us, gave everybody the opportunity to ask questions and, like I
18 said before, some did, and it felt to me like a standard first
19 meeting.

20 Q. Did you have a sense at the end of the meeting whether they
21 were leaning -- COBA, that is, was leaning towards one fund or
22 the other or neither?

23 A. I don't remember exactly when I got the sense, but it
24 wasn't a sense when I found out. I was told, I believe by
25 Mr. Landesman and Mr. Kaplan, that COBA had chosen to go into

HAQPSEA2

Kalter - Direct

1 PPVA and not into PPCO.

2 Q. Okay. Did you know that at the meeting?

3 A. I don't remember if it was at the meeting or sometime
4 shortly after the meeting. I don't remember exactly when.

5 Q. Okay. Now, are you aware of how much COBA -- did they
6 ultimately invest?

7 A. Yes.

8 Q. And are you aware of how much they invested?

9 A. Yes.

10 Q. At first, how much was that?

11 A. I think the first invest -- I think it was \$10 million to
12 start. I think that was their first investment. Again, it's
13 PPVA, it's a little foreign.

14 Q. Okay. And based on your experience working at Platinum, do
15 you know what the phrase "institutional investor" means?

16 A. Yes.

17 Q. And what is that?

18 A. Institutional investors is an investor who has set up shop
19 to be in. The business of investing capital on behalf of
20 whoever they're representing, if it's a college endowment, it's
21 the college's endowment that sets up the investment committee,
22 et cetera. If it's a pension fund, if it's a public fund, they
23 are set up, these investors, to do the diligence and homework
24 required on making an investment.

25 Q. And what are the benefits, if any, of institutional

HAQPSEA2

Kalter - Direct

1 investors?

2 A. I'm sorry, I didn't hear you.

3 Q. What are the benefits, if any, of institutional investors?

4 A. The institutional investors write larger checks than
5 individuals. They have access to larger sums of capital, and
6 institutional investors, once they do their homework on you and
7 choose to move forward, very typically are what's known as
8 sticky capital, which is capital that likes to stay with the
9 manager as the manager's returning capital, meaning returning
10 positive performance on that capital.

11 Q. And not take their money out?

12 A. Correct. I mean, they could, obviously, and they do, but
13 generally that's the reputation.

14 Q. And was COBA an institutional investor?

15 A. I believe so.

16 Q. And after the meeting, and you found out that they were
17 going to invest 10 million, did you play any role with respect
18 to COBA's investments going forward?

19 A. Yes.

20 Q. And what? If you can, give us an overview of what role or
21 roles you played, and then we can talk specifically.

22 A. I just helped on the legal side, documentation. I helped
23 get some documentation done.

24 Q. Okay. All right, well, let's start there and look at some
25 of that documentation.

HAQPSEA2

Kalter - Direct

1 MR. CAPONE: Ms. Bustillo, if you can put up
2 Government Exhibit 403, which I believe is in evidence.

3 Does everybody have it?

4 THE COURT: Yes.

5 Q. Okay. Mr. Kalter, do you see this is a letter to SS&C
6 Technologies?

7 A. Yes.

8 Q. And who is that?

9 A. SS&C is a fund administrator that Platinum used.

10 Q. And very basically, what do they do?

11 A. The administrator provides, let's just zoom out and say,
12 two general services. One is investor relation services; so it
13 will help you with -- they'll send out your monthly statements,
14 they'll help bring capital. When somebody subscribes, they'll
15 do the anti-money laundering checking to make sure the capital
16 is not laundered capital or dirty capital and make sure that
17 they can release it to us to use, and they'll help with
18 collecting all the documentation and keeping the files for each
19 investor.

20 The other thing that they do is they help the finance
21 department keep parallel books and records and accounting so
22 that there's always a second set of books and records for the
23 company.

24 Q. Do you see this letter is from a Howard Wien on behalf of
25 Koehler and Isaacs?

HAQPSEA2

Kalter - Direct

1 A. Yes.

2 Q. And who is that?

3 A. COBA's outside counsel.

4 Q. And in the body it says: "Enclosed are a signed and
5 initialed subscription agreement, a signed side letter and a
6 form W9, by which my client, the Corrections Officers'
7 Benevolent Association annuity fund, applies to subscribe in
8 the PPVA International Limited."

9 We've already talked about what a subscription
10 agreement is. Do you know what a side letter is?

11 A. Yes.

12 Q. And what is a side letter?

13 A. So a side letter is a document that an investor may ask for
14 if the investor would like some terms in the way that the fund
15 is run that are listed in the private placement memorandum. If
16 they'd like to deviate and have their investment governed by
17 different terms, they'll ask for a side letter that will
18 effectively amend the PPM as it relates to their investment and
19 their investment only.

20 Q. I mean, is that something that, in your time at Platinum,
21 happened from time to time with investors?

22 A. It happened from time to time with investors.

23 Q. And it also references a form W9, and what's that?

24 A. It's the tax form that the administrator keeps on hand so
25 that, at the end of the year, they have each investor's tax

HAQPSEA2

Kalter - Direct

1 information.

2 Q. All right. And, again, I just want to take a look at a
3 couple of provisions on these signed documents. Well, first,
4 what is the actual entity investing here in February of 2014?

5 A. It's the Corrections Officers' Benevolent Association
6 annuity fund, period.

7 Q. Okay. Ms. Bustillo, can we go to the third page.

8 And what is this, Mr. Kalter?

9 A. This is the PPVA International Fund or, as we called it
10 earlier, the offshore fund. Their subscription agreement.

11 Q. Okay. This is for -- at the top of this it says, for COBA?

12 A. Yes.

13 Q. So they were investing in the offshore fund?

14 A. Yes.

15 Q. Is it because they were a tax-exempt investor?

16 A. I would assume that, but I don't know that for sure.

17 Q. All right. Ms. Bustillo, can we go to the seventh page.

18 Is this a page from the subscription agreement?

19 A. It appears to be.

20 Q. Can you please read section 5(a)?

21 A. "Represents that the subscriber has adequate means of
22 providing for all its current needs and possible contingencies,
23 has the financial ability to bear the economic risk of losing
24 its entire investment in the fund, and has no need for
25 liquidity with respect to this investment beyond that provided

HAQPSEA2

Kalter - Direct

1 in the fund's charter documents."

2 Q. All right. Then, Ms. Bustillo, if we can now go to the
3 25th page.

4 Who is this subscription agreement signed by?

5 A. Mr. Seabrook.

6 Q. And what date was it signed? I think you have to zoom out.

7 A. The 20th of February, 2014.

8 Q. And finally, Ms. Bustillo, if we can go to page 36.

9 Do you recognize what this is, Mr. Kalter?

10 A. Yes, this is the side letter.

11 Q. For that first investment?

12 A. Can you zoom back out for me? Yes.

13 Q. All right. If we could just focus on the first, the
14 numbered paragraph one. Can you read that to us and -- well,
15 first, can you read that to us?

16 A. Sure. "1: Distributions in kind. PPVA agrees that,
17 notwithstanding any provision in the fund documents permitting
18 distributions in kind to the shareholders of PPVA, it will not
19 make a distribution in kind to the investor. Any distribution
20 in kind that otherwise would be made to the investor will be
21 held by PPVA for the benefit of the investor, and cash proceeds
22 will be distributed to the investor promptly following the
23 liquidation thereof."

24 Q. And do you have an understanding as to what that provision
25 means?

HAQPSEA2

Kalter - Direct

1 A. Yes.

2 Q. What is that?

3 A. It means that in the fund documentation, it permitted that
4 in the event that there was an asset that needed a long time
5 for it to turn into cash or mature, that if PPVA went out of
6 business or closed, the manager of PPVA would have the right to
7 distribute the actual investments, not cash, to the investors,
8 and the investors would then have to figure it out and, you
9 know, collect their capital when it matured.

10 This provision says that PPVA will not do that with
11 respect to COBA.

12 Q. Okay. And you can zoom out, Ms. Bustillo.

13 On the first page of this letter, are there any other
14 substantive provisions that are negotiated?

15 A. I don't see any.

16 Q. Okay. And if we can go to the second page. Do you see any
17 others there?

18 A. No.

19 Q. All right. We can take that down.

20 So we've just reviewed the paperwork for the initial
21 \$10 million investment. Did there come a time, if you know,
22 when more money was invested by COBA but from a different legal
23 entity?

24 A. Yes.

25 Q. And how much was invested the second time?

HAQPSEA2

Kalter - Direct

1 A. Five million.

2 Q. And let's publish Government Exhibit 405, Ms. Bustillo.

3 It's in evidence.

4 THE COURT: The jurors should have that on the screen.

5 Okay. Go ahead, counsel.

6 Q. Do you recognize what this is, Mr. Kalter?

7 A. Yes.

8 Q. And what is it?

9 A. So this is a similar letter like we saw earlier for the

10 first investment from COBA's outside counsel to SS&C

11 Technologies, Platinum's administrator, attaching the same

12 three documents as last time. I think it was -- yeah, the

13 subscription agreement, the side letter and the tax W9 form.

14 Q. And is this on behalf of a different entity, at least legal
15 entity?

16 A. Yes.

17 Q. And what is that?

18 A. The Corrections Officers' Benevolent Association, Inc.

19 Q. Okay. And what's the date on which Mr. Wien sent the
20 signed materials?

21 A. June 3rd, 2014.

22 Q. And, by the way, you said earlier that you were involved in
23 helping with some of the documents. Were the side letters
24 things that you helped work on?

25 A. Yes. I helped liaise with outside counsel to get it done.

HAQPSEA2

Kalter - Direct

1 Q. Okay. All right. Again, Ms. Bustillo, if we can go to the
2 seventh page of this document. One back. If we could
3 highlight again provision 5(a).

4 Can you read that?

5 A. Sure. "Represents that the subscriber has adequate means
6 of providing for all its current needs and possible
7 contingencies, has the financial ability to bear the economic
8 risk of losing its entire investment in the fund and has no
9 need for liquidity with respect to this investment, beyond that
10 provided in the fund's charter documents."

11 Q. And so did both legal entities make this representation?

12 A. I believe so.

13 Q. And again, Ms. Bustillo, Page 25.

14 And who signed this subscription agreement?

15 A. Mr. Seabrook.

16 Q. And, finally, Page 40, Ms. Bustillo.

17 Do you recognize what this is, Mr. Kalter?

18 A. Yes, this is the side letter for that. This is the side
19 letter that was referenced in the last exhibit.

20 Q. Okay. Does it have the same authorization in terms of the
21 distributions in kind?

22 A. Yes.

23 Q. And this one has a second paragraph titled Liquidity. Can
24 you read that, please?

25 A. Yes. "Liquidity. For so long as investor maintains a

HAQPSEA2

Kalter - Direct

1 balance of at least \$5 million invested in PPVA, then upon
2 three days' notice, PPVA will allow investor to redeem up to
3 \$1 million of its investment. For the avoidance of doubt,
4 investor shall only be permitted to exercise this liquidity
5 right one time following its initial investment, provided,
6 however, that in the event that investor re-invests the
7 redeemed amount and the balance at such time exceeds \$5
8 million, investor shall again be permitted to exercise this
9 liquidity right."

10 Q. Do you have an understanding of what that provision meant?

11 A. Yes.

12 Q. And what is that?

13 A. It means that as long as COBA has a balance of \$5 million,
14 they can ask for a million dollars back and upon three days'
15 notice. The --

16 Q. Sorry, I interrupted you.

17 A. And then it goes on to say that they could only do this
18 once, but they re-earn that right if their balance goes up
19 above \$5 million again.

20 Q. And is that if they reinvest the redeemed \$5 million?

21 A. Yes.

22 Q. And does this apply to COBA, Inc. or to the entire COBA
23 investment?

24 A. This is the side letter only for the second -- this one
25 applies to the second investment.

HAQPSEA2

Kalter - Direct

1 Q. Okay. And are you --was it, in your experience, common, or
2 at least did it happen from time to time, to negotiate
3 liquidity provisions in side letters?

4 A. Yes.

5 Q. All right. So we can take that down.

6 MR. CAPONE: And, your Honor, I'm going to move into
7 evidence a number of e-mails that we've conferred about; so I
8 don't have to do it ten times, and that's Government
9 Exhibits 1034, 1038, 1046, 1049, 1050, 1057, 1060, 1068, 1069,
10 1070 and 1080.

11 MR. MAZUREK: No objection, your Honor.

12 MR. SHECHTMAN: None, your Honor.

13 THE COURT: All right. They're all in.

14 (Government's Exhibits 1034, 1038, 1046, 1049, 1050,
15 1057, 1060, 1068, 1069, 1070 and 1080 received in evidence)

16 MR. CAPONE: If we could start, Ms. Bustillo, with
17 1080.

18 BY MR. CAPONE:

19 Q. All right. And let's focus on the bottom e-mail at first.
20 This is from Howard Wien to Will Slota. Who is Will Slota?

21 A. Will Slota was -- worked in the operations department,
22 eventually becoming the chief operating officer of the PPVA
23 funds.

24 Q. Okay. And in the body it says -- the subject is Correction
25 Officer Benevolent Association. The body says two items. Can

HAQPSEA2

Kalter - Direct

1 you read the second item?

2 A. Sure. "Norman has instructed me to investigate investing
3 union, as opposed to annuity fund money. He tells me he spoke
4 with Platinum officials about this. Please forward any
5 appropriate documentation. My understanding is that if the
6 investment is made, it will be with the same liquidity
7 protections as in the annuity fund side letter."

8 Q. Okay. So this e-mail, I think we saw the signed documents
9 for June 3rd in the previous exhibit we reviewed?

10 A. I don't remember the date.

11 Q. Okay.

12 A. Sorry.

13 Q. That's okay. But according to this e-mail, as of May 15th,
14 was Platinum made aware that Norman Seabrook was considering
15 investing union money?

16 A. It appears that way from this e-mail.

17 Q. And I guess it looks like it was forwarded to you?

18 A. I guess so.

19 Q. You seem to not have known what he was talking about at
20 first?

21 A. I have to read it first.

22 Q. Yes.

23 A. I see what you mean by I didn't know what he was talking
24 about.

25 Q. All right. So we can take this down. Ms. Bustillo, if we

HAQPSEA2

Kalter - Direct

1 can go to Government Exhibit 1034.

2 Okay. Let's start with the bottom e-mail, if the jury
3 has it. Can you read the "from" and "to" and the text of this
4 e-mail?

5 A. Sure. It's from Mark Nordlicht, it's to Michael Kimelman.

6 Q. And what's the date?

7 A. It's dated Friday, May 30th, 2014.

8 Q. Okay. And what did he say?

9 A. "What subs are in or expected for June 1?"

10 Q. And by subs, do you have an understanding of what that's
11 referring to?

12 A. Subscriptions.

13 Q. If we could take that part down, and go to the next couple
14 of e-mails on the chain.

15 Okay. So working from the bottom up, do you see
16 Mr. Kimelman list a bunch of numbers, the names are redacted,
17 but is it fair to say those are other investors?

18 A. Yes.

19 Q. And then you see expected, amounts unknown, COBA?

20 A. I see that.

21 Q. Okay. And then I think we can go just right to the top of
22 the e-mail chain. Do you see that's an e-mail from Michael
23 Kimelman to Mark Nordlicht?

24 A. Yes.

25 Q. CC'ing Bernie Fuchs and Murray Huberfeld?

HAQPSEA2

Kalter - Direct

1 A. I see it.

2 Q. And what did Mr. Kimelman say?

3 A. He said: "I got document to Norman on Wednesday."

4 Q. Again, is this around the same time period as the
5 investment of COBA, Inc. money, or union money, we've been
6 referring to?

7 A. Yes, the second. I don't know that Inc. is union money. I
8 just know that it's Inc.

9 Q. It's the second?

10 A. Yeah.

11 Q. Okay. And if we can go to 1038 now. Can you read that
12 one?

13 A. Yes.

14 Q. The "from" and the "to"?

15 A. This is an e-mail from Mark Nordlicht to Murray Huberfeld
16 dated June 2, 2014, and it -- would you like me to read?

17 Q. Yes.

18 A. It says: "COBA in?"

19 Q. All right. So we can take that down, Ms. Bustillo.

20 Mr. Kalter, after these first two investments that
21 we've reviewed, were you involved in any way in any future
22 meetings with COBA?

23 A. Yes.

24 Q. And one meeting or multiple meetings?

25 A. One.

HAQPSEA2

Kalter - Direct

1 Q. And when did that happen?

2 A. This date I actually remember because it was the day after
3 my son was born. It was the 29th of July, and it was -- I was
4 asked to fill in for Mr. Landesman and Mr. Kaplan, who were
5 oversee seas in Asia, for an update meeting.

6 Q. And do you recall how you were asked to fill in or when you
7 learned about it?

8 A. I don't remember exactly when I learned about it. It
9 wasn't that much time prior to the meeting, and as I said
10 earlier, I really didn't know much about the PPVA marketing
11 pitch and fund. Mr. Landesman gave me some talking points and
12 told me to go and explain that they were overseas and I was,
13 you know, filling in and reading from a scripted piece of paper
14 some bullet points that Mr. Landesman had asked me to deliver.

15 And I told Mr. Seabrook and the entire board that
16 Mr. Landesman and Mr. Kaplan, who they liaised with, were
17 overseas and they'd be back, and if there was any follow-up
18 questions, don't waste your breath on me. We'll set up, we'll
19 get you -- you know, they'll talk to you guys when they get
20 back.

21 Q. All right. So Ms. Bustillo, can we publish Government
22 Exhibit 1046 and go through the third and final page of that.
23 If we can highlight the e-mail.

24 So do you see this is an e-mail from Tommy Reynolds,
25 to Bart Weinstein, Janina Kreider, Andrew Kaplan and Gina

HAQPSEA2

Kalter - Direct

1 Laburdy?

2 A. Yes.

3 Q. Dated July 22nd?

4 A. Yes.

5 Q. Do you know anyone on the recipient end of that chain?

6 A. Only Mr. Kaplan.

7 Q. He's from Platinum?

8 A. Yes.

9 Q. And the body says: "The next trustee meeting will be
10 Tuesday, the 29th, at 10:00 a.m. I will send out the times to
11 you in a separate e-mail. Please set the day aside."

12 Is Tuesday the 29th the meeting you attended?

13 A. Yup.

14 Q. All right. If we could go to the second page of this
15 e-mail, I guess at first on the bottom half. We can highlight
16 that.

17 Okay. Again, an e-mail from Mr. Reynolds from Friday,
18 July 25th, 2014, to the same group of people, setting forth
19 some times. Do you see that?

20 A. Yes.

21 Q. And Platinum is one of the presenters?

22 A. Yes.

23 Q. And then we can highlight the next two parts of the chain
24 at once, Ms. Bustillo.

25 Okay. Do you see the next day, July 26th,

HAQPSEA2

Kalter - Direct

1 Mr. Kaplan's first response is: "Hi, Tommy. Uri and I are in
2 Asia, back 8-1. We left New York on 7-22, and I was never
3 informed earlier that there would be such a meeting for when
4 can we reschedule?" Do you see that?

5 A. Yes.

6 Q. And what was Mr. Reynolds' response to Mr. Kaplan?

7 A. Would you like me to read it?

8 Q. Sure.

9 A. He responds: "I found out the same day as you. Try to
10 have someone there just for a quick review. Safe travels."

11 Q. And what was Mr. Kaplan's further response, if you can read
12 it?

13 A. Yeah. He writes: "Uri and I are the only ones who can do
14 it. We would call in from Asia and send the presentations, but
15 we will be on a flight from 8:00 to 3:00 p.m. Eastern, Tokyo to
16 Singapore."

17 Q. Okay.

18 A. "We can" --

19 Q. Sorry to interrupt you.

20 A. "We can call in on Monday at that time from Tokyo."

21 Q. Okay. Although he said Uri and I are the only ones that
22 can do it, I take it you did go to this meeting?

23 A. Yes.

24 Q. Okay. And, finally, we can go to the first page. From
25 there up, if you can highlight, Ms. Bustillo, all the way to

HAQPSEA2

Kalter - Direct

1 the top.

2 Do you see that Mr. Landesman then forwarded that
3 chain to Mr. Huberfeld and said: "Let's discuss this when I
4 return. Hoping to be in on Wednesday"?

5 A. I see that.

6 Q. Okay. And what was Mr. Huberfeld's response?

7 A. "Call me."

8 Q. What was Mr. Landesman's response?

9 A. "Now, from Tokyo?"

10 Q. And then Mr. Huberfeld appeared to send a phone number?

11 A. Yes.

12 Q. And Mr. Landesman: "Having trouble reaching you"?

13 A. Yes.

14 Q. "Please call me" and then digits?

15 A. Yes.

16 Q. What time did Mr. Huberfeld send his phone number to
17 Mr. Landesman?

18 A. At 10:08 p.m.

19 Q. All right. And this is July 27th?

20 A. Yes.

21 MR. CAPONE: Okay. So we can pull that down and,
22 next, if we can publish to the witness alone Government
23 Exhibit 1079.

24 I will also move this into evidence. I'm not sure if
25 there's an objection.

HAQPSEA2

Kalter - Direct

1 MR. MAZUREK: No objection.

2 THE COURT: Hold on.

3 MR. SHECHTMAN: No objection.

4 THE COURT: Okay. That's in.

5 (Government's Exhibit 1079 received in evidence)

6 MR. CAPONE: Okay.

7 THE COURT: Hold on. It may take a moment for the
8 jury to get it. Okay. Jurors have it now? Okay. Go ahead,
9 counsel.

10 MR. CAPONE: Thank you, Judge. If we can go to the
11 second page.

12 BY MR. CAPONE:

13 Q. It looks like the bottom e-mail is cut off, but do you see
14 Mr. Landesman writes to you "Now"?

15 A. I see that.

16 Q. And then what was your response?

17 A. "Can you call the U.S.?"

18 Q. Okay. And is this -- this is July 27th. Is this the same
19 day as the e-mail we were just reviewing?

20 A. Yes.

21 Q. Okay. And if we can go back to the first page, and,
22 Ms. Bustillo, if you can highlight the bottom e-mail from
23 Mr. Landesman.

24 And if you could read that, Mr. Kalter?

25 A. Sure. He writes: "Better for you to call," and his phone

HAQPSEA2

Kalter - Direct

1 number. "Have note-taking equipment, as I'll give you some
2 talking points. I think they came in March 1st, so get
3 monthlies from Joe Mann. I think you'll only get ten minutes.
4 Don't pitch for more. Norman will handle that after you leave.
5 Sent from my iPad."

6 Q. Okay. You can take that down.

7 Just below that, what time had you written to
8 Mr. Landesman?

9 A. It appears to be 10:39 p.m.

10 Q. Okay. Do you recall from the e-mail we just reviewed
11 previously, at around 10:08 p.m. Mr. Landesman was also
12 coordinating to speak to Mr. Huberfeld about this meeting?

13 A. I think so, but I would love to see the past e-mail to
14 verify it was the exact same time, like you're saying, but it
15 sounds about close.

16 Q. We can let it speak for itself, but thank you.

17 Okay. And did you then speak to Mr. Landesman that
18 night?

19 A. I don't remember if it was that night or the next morning,
20 but I did, at some point after this, speak to Mr. Landesman
21 with my note-taking equipment ready.

22 Q. I think this phone call you already described, but is that
23 the call in which he gave you bullet points to provide to the
24 board?

25 A. I believe so, yes.

HAQPSEA2

Kalter - Direct

1 Q. And was it your understanding, based on that conversation,
2 that you were pitching for more money, or you were just giving
3 them an update?

4 A. My understanding was it was an update. I went in with the
5 bullet points. I read them, and I basically left.

6 Q. Did you ask for any more money into Platinum?

7 A. I don't think so, but I don't recall all the specifics
8 about that meeting. It was a while ago.

9 Q. Okay. Were you the only one from Platinum?

10 A. Yes.

11 Q. And who was there, if you recall, from COBA?

12 A. Similar to the pitch meeting that I attended with
13 Mr. Landesman and Mr. Kaplan, it appeared to be Mr. Seabrook
14 and his fellow trustees. I could be getting that term
15 incorrect, but it seemed to me a similar group.

16 Q. Did you know at the time, not what you know now, did you
17 know at the time whether any more money was invested within a
18 few days after that meeting?

19 A. I don't recall my state of mind then.

20 Q. Okay.

21 A. Sorry.

22 Q. That's okay.

23 Ms. Bustillo, can we put up now Government
24 Exhibit 1049.

25 And do you see this is just a couple of days later

HAQPSEA2

Kalter - Direct

1 Mr. Nordlicht wrote: "Did COBA send docs?"

2 A. I see that.

3 Q. And, who's Mr. Kimelman?

4 A. Mr. Kimelman was an employee of the PPVA fund, in their
5 operations department.

6 Q. And his response was: "Not yet"?

7 A. Say that again, I'm sorry.

8 Q. His response was: "Not yet"?

9 A. Yes, his response is "not yet."

10 Q. And who did Mr. Nordlicht forward that to?

11 A. Mr. Huberfeld.

12 Q. We can take that down and put up Government Exhibit 1050,
13 please. Okay.

14 The bottom e-mail says it's from Howard Wien to Andrew
15 Kaplan on August 1st. Is that three days after the update
16 meeting that you attended?

17 A. Yes.

18 Q. It just says: "Per your request" and we'll look at the
19 attachment in a moment. Who did Mr. Kaplan forward that to?

20 A. Mr. Nordlicht and Mr. Huberfeld.

21 Q. If you look at the middle e-mail --

22 A. Oh, my bad.

23 Q. That's okay.

24 A. I'm sorry about that. He, Mr. Kaplan, sent it to
25 Mr. Landesman and he cc'd Joe Mann.

HAQPSEA2

Kalter - Direct

1 Q. Okay. And then who did Mr. Landesman forward it to?

2 A. Mr. Landesman forwarded it to Mr. Huberfeld and
3 Mr. Nordlicht.

4 Q. Let's take a look at what was forwarded, if you can go to
5 the next page. Do you recognize what this is?

6 A. Yes.

7 Q. And what is it?

8 A. This is a form that is in the subscription package that
9 enables an investor, who had already invested in a prior
10 period, to add more money to their investment without having to
11 go through the process of completing a full subscription
12 package. They can fill out this one-page form and attach it to
13 their existing forms.

14 Q. Okay. So they don't need to re-fill out everything?

15 A. Yeah. It's not the simplest of forms to get through.

16 Q. And what was the entity here that was adding money?

17 A. Oh, sorry. The Corrections Officers' Benevolent
18 Association annuity fund.

19 Q. And how much money was being added?

20 A. \$5 million.

21 Q. Okay. And what was the date this was signed up at the top?

22 A. It's either August 1st or August 7th. I can't tell, but I
23 think it's August 1st.

24 Q. The e-mail forwarding this was August 1st.

25 A. So then I would go with August 1.

HAQPSEA2

Kalter - Direct

1 Q. And who signed it?

2 A. It looks like Mr. Seabrook.

3 Q. And again, this was a couple -- a few days after the update
4 meeting?

5 A. Yes.

6 Q. Okay. All right. So that takes us through August 2014.
7 Did anything happen with respect to your role or
8 responsibilities at Platinum later in 2014?

9 A. Yes.

10 Q. And what was that?

11 A. At the end of 2014, we had mentioned that Platinum moved
12 offices. In conjunction with that move, there was an effort to
13 restructure the operations. Let's just call it the back office
14 of the two funds because there were some duplicative roles
15 still that hadn't been removed or combined from the 2011
16 restructuring.

17 I gave my chief operating officer title to somebody
18 else, and I focused solely on raising capital for PPCO with the
19 idea of trying to learn the marketing pitch and fund of PPVA,
20 but that never took hold. I focused solely on PPCO and helped,
21 like I did here, with some legal stuff, if anything.

22 Q. Okay. Whose thought or idea was it for you to, in theory,
23 take on that expanded role?

24 A. Mr. Nordlicht. Mr. -- Mr. Nordlicht.

25 Q. And why didn't it actually happen?

HAQPSEA2

Kalter - Direct

1 A. Because Mr. Landesman never left.

2 Q. And what happened further into 2015 with respect to your
3 job at Platinum?

4 A. So I left. I decided it was time for me to start my own
5 fund. I took somebody who had been with us at Centurion for a
6 long time, from the very beginning, and we started the business
7 that we spoke about yesterday called Regia.

8 Q. And around when was it that you actually sort of left
9 Platinum and started Regia?

10 A. So it was -- it was somewhere summer or early third
11 quarter. The dates are --

12 Q. Of what year?

13 A. Of '15.

14 Q. Okay.

15 A. That we left.

16 Q. And prior to that time, in late 2014, early 2015, were you
17 both working at Platinum and planning this new fund?

18 A. Can you -- one more time. I'm sorry.

19 Q. Yes, prior to that, in the months at the end of 2014 and
20 beginning of 2015, were you both working at Platinum and also
21 getting ready to start this new fund?

22 A. Yes.

23 Q. Okay. And although you did not take on the role with
24 respect to marketing PPVA, did Mr. Nordlicht, nonetheless,
25 include you on some relevant e-mails with respect to marketing

HAQPSEA2

Kalter - Direct

1 issues?

2 A. Yes.

3 Q. I'm going to pull up a couple of those e-mails. If we can
4 publish Government Exhibit 1057 in evidence.

5 In the bottom e-mail dated November 27th, 2014, from
6 Mr. Nordlicht to you reads: "Any activity December 1?"

7 Can you read your response?

8 A. Sure. I responded at 8:34 p.m. "There is definitely SK
9 money but not a lot. Yossi, how much is the current total for
10 PPCO?"

11 Q. And what did you mean by "definitely SK money"?

12 A. SK was a consulting firm that advised, let's just call it,
13 institutional money, institutional capital. They had invested
14 in a nice way into PPCO, and every month they would let us know
15 if they were putting some or none -- some or no capital into
16 our fund. So I'm telling Mr. Nordlicht that there definitely
17 was some, but not a lot.

18 Q. And what was Mr. Nordlicht's response?

19 A. He responds: "I really need PPVA. I know Murray was
20 working on COBA. On the horizon, we have 44 million dec 31
21 reds there."

22 Q. And what do you understand him to have meant by "I really
23 need PPVA"?

24 A. That he would like new investors to invest in PPVA.

25 Q. And you had told them about PPCO?

HAQPSEA2

Kalter - Direct

1 A. Correct.

2 Q. And he said, "I know Murray was working on COBA," and
3 following that, "On the horizon, we have 44 million dec 31 reds
4 there." Do you have an understanding of what that meant?

5 A. Yes.

6 Q. And what is it?

7 A. It means that on the redemption date of December 31, the
8 calendar date, the date that the redemptions were actually
9 redemptions, he had to -- he had \$44 million worth of investors
10 that were asking for a redemption on that date.

11 Q. Okay. All right. Let's take that down and put up, if we
12 can, Ms. Bustillo, Government Exhibit 1060.

13 And by the way, you just talked about redemption. Can
14 you remind us what redemption is?

15 A. Sure. Redemption is opposite of the subscription. A
16 redemption is when they asked for their capital to be returned
17 to them.

18 Q. Okay. And this is an e-mail from the following day, from
19 Mark to Murray Huberfeld, and can you just read that?

20 A. It reads: "Any chance for COBA for" December, or "dec 1?
21 Hoping for a big -- hoping for big month in dec," December.
22 "Regards from Shalom, by the way. Saw him at Kotel."

23 Q. Do you recall -- we can take that down.

24 Do you recall, during the early part of 2015, being
25 asked to go or invited, I should say, to go to another meeting

HAQPSEA2

Kalter - Direct

1 with COBA to pitch for money?

2 A. Yes.

3 Q. Did you actually go to that?

4 A. No.

5 Q. Were you included on e-mails with respect to that meeting?

6 A. I don't really remember.

7 Q. Okay. We'll pull a couple up. Let's pull up Government

8 Exhibit 1068. Okay. So do you see April 1, 2015, Andrew

9 Kaplan writes for April 1, currently 30 million in new subs for

10 PPVA. 10 million of that received. See attached spreadsheet

11 for names and details. It appears to be a chain that you're

12 on. Do you have an understanding as to what that meant?

13 A. Yeah.

14 Q. And what is that?

15 A. He's in his marketing role. He's explaining new investors

16 subscribing for two PPVA for this April 1st date, and he's

17 saying that of this \$30 million, that he has, let's call it,

18 indications of ten million so far has been received in the

19 bank.

20 Q. Okay. And then do you see Mr. Nordlicht's response to

21 Mr. Kaplan, cc'ing you and others?

22 A. Yes.

23 Q. Can you read it?

24 A. He writes: "I don't think COBA has been confirmed. Let's

25 bring in another five to ten so we won't feel sting if it

HAQPSEA2

Kalter - Direct

1 doesn't come in."

2 Q. All right. And what is your understanding of what that
3 meant?

4 A. He's -- well, let's start at the beginning. He doesn't
5 think COBA's been confirmed means he's not sure that COBA is
6 actually going to come in. Let's bring another five to ten
7 means let's find other investors. So we won't feel the sting
8 if it doesn't come in, so he won't have a shortfall or a need
9 to come up with capital from other means.

10 Q. And to be clear, this is after the first three COBA
11 investments. This isn't referring to any of those; is that
12 right?

13 A. Yes, it appears to be after, which would mean it's
14 something new.

15 Q. All right. We can take that down, Ms. Bustillo, and put up
16 Government Exhibit 1069.

17 The bottom e-mail is from Mr. Nordlicht to Mr. Kaplan,
18 cc'ing you. And can you read that e-mail?

19 A. He writes: "We lost COBA, unfortunately. Any last-minute
20 people we should be contacting? I think they have until the
21 end of next week."

22 (Continued on next page)

23

24

25

HAQJSEA3

Kalter - direct

1 Q. What was Mr. Kaplan's response?

2 A. Andrew responds, "I'm trying. Did anyone speak with
3 Norman?"

4 Q. Do you recall if you spoke with Norman around that time?

5 A. Me?

6 Q. Yes.

7 A. I don't think I did.

8 MR. CAPONE: Finally, in terms of emails, Ms.
9 Bustillo, if we can publish Government Exhibit 1070. Just
10 highlight the text.

11 BY MR. CAPONE:

12 Q. The bottom is an email from Andrew Kaplan to Mark
13 Nordlicht, CC'g you and others. Can you read it.

14 A. Yes. Andrew writes, "Meeting with COBA went great. Norman
15 said he will send us more money shortly."

16 Q. I think you testified earlier that you did not go to
17 another solicitation meeting?

18 A. Yeah, I didn't. I don't believe I went to anything
19 further.

20 Q. What was Mr. Nordlicht's response?

21 A. "What does shortly mean?"

22 Q. What was Mr. Kaplan's response?

23 A. "Couldn't press him in meeting in front of all."

24 Q. What did you understand Mr. Kaplan to have meant?

25 A. Now or then?

HAQJSEA3

Kalter - direct

1 Q. Now?

2 A. That he felt it was inappropriate at a board meeting to
3 ask --

4 MR. MAZUREK: Objection. This calls for speculation.

5 THE COURT: Sustained. Please rephrase the question.

6 MR. CAPONE: I'll just withdraw it. Thank you. We
7 can take that down.

8 BY MR. CAPONE:

9 Q. All right, Mr. Kalter, I have a couple of concluding topics
10 before we wrap up.

11 First, do you recall Mr. Rechnitz being involved in
12 any other pitches that you were aware of?

13 A. There was one other pitch that he had facilitated setting
14 up with the police, I don't know what the entity, I don't
15 remember what the entity was, but it was like the police. That
16 is all I remember about Jona.

17 Q. Were you at that pitch with the police?

18 A. Yes.

19 Q. Where did it take place?

20 A. At the new Platinum offices.

21 Q. What do you remember about it?

22 A. I remember that we brought a bunch of people from Platinum
23 into the meeting. I remember that we ordered a nice lunch, it
24 was lunchtime, and I remember not specifics about the pitch
25 itself, they're all a blur, there were so many of them, but I

HAQJSEA3

Kalter - direct

1 remember it happening. I remember them coming and I remember
2 them leaving, but, you know, it's a little bit of a blur.

3 Q. Are you aware of whether that police entity, whatever it
4 was, ever invested in Platinum?

5 A. To my knowledge, they did not.

6 Q. Mr. Kalter, are you aware over the years of whether anyone
7 at Platinum bought batches of Nicks tickets?

8 A. I am.

9 Q. Did you play any role with that?

10 A. I bought batches of Nicks tickets.

11 Q. How did it work?

12 A. Well, first I have my own season tickets, and then there
13 was a cousin of Mr. Nordlicht who had seats that a bunch of us
14 bought anywhere from 5 to 10 games, two to four seats. He had
15 four seats, but we broke them up. For I think two seasons a
16 whole bunch of us purchased a couple of games each from him.

17 Q. Did that include the 2014 to 2015 season?

18 A. Yes.

19 Q. Where were the seats?

20 A. The seats were in Section 107, Row 4.

21 Q. Where is Section 107?

22 A. Section 107 is the center court section. It is not the
23 folding chairs like on the floor, but it's the fourth row up,
24 good seats.

25 Q. What was your responsibility, if any, with respect to the

HAQJSEA3

Kalter - direct

1 tickets?

2 A. I divided them up with Mr. Nordlicht's cousin, picking
3 which games, and then I divided them up from all the people on
4 our side that said I want five, I want five, I want four,
5 whatever it was. Then I distributed them. I would arrange to
6 get Mr. Nordlicht's cousin paid for his tickets.

7 Q. Approximately how many games would tickets be bought for?

8 A. It is hard to give you that exact answer because what would
9 happen is let's say I wanted two tickets and somebody else
10 wanted two tickets, we might take four for one game and I would
11 go to and they would go to.

12 Definitely a personality issue of meshing who with
13 who. I would guess that, you know, there were probably four to
14 six people each taking five games, some taking four seats, some
15 taking two seats.

16 Q. Were the tickets used personally or for clients?

17 A. I don't really remember. I would err on the side of
18 caution and say both. I don't remember.

19 Q. Are you aware of any purchases by Platinum around the 2013
20 to 2015 time of batches of Nicks tickets from anyone from Jona
21 Rechnitz?

22 A. I am not.

23 Q. Or from anyone other than Mr. Levine who you mentioned
24 previously?

25 A. No.

HAQJSEA3

Kalter - cross

1 MR. CAPONE: If I can have one moment, your Honor.

2 (Off-the-record discussion)

3 MR. CAPONE: No further questions.

4 THE COURT: Any cross-examination?

5 MR. MAZUREK: Yes, sir.

6 THE COURT: Okay, go ahead.

7 CROSS-EXAMINATION

8 BY MR. MAZUREK:

9 Q. Good morning, Mr. Kalter.

10 A. Good morning.

11 Q. My name is Henry Mazurek, and I represent Murray Huberfeld.

12 You testified on direct examination about how you got
13 to know Mr. Huberfeld. I am going to ask you questions related
14 to that. Did you first meet Mr. Huberfeld at the Platinum
15 offices?

16 A. Yes.

17 Q. Did you know Mr. Huberfeld before then?

18 A. Yes, but not personally.

19 Q. How did you know him?

20 A. That he had seeded my brother-in-law's fund. They were
21 partners, so to speak, and he was a local resident of the area
22 I grew up in.

23 Q. What area was that?

24 A. The five towns, Long Island. I grew up in Woodmere. Mr.
25 Rechnitz lived in Lawrence.

HAQJSEA3

Kalter - cross

1 Q. Are you familiar with the restaurant chain Kosher Delight?

2 A. Yes.

3 Q. How do you know it?

4 A. I have been a patron for many, many years. Unfortunately,
5 it is no longer.

6 Q. What were the set of restaurants?

7 A. Mr. Huberfeld brought the concept of fast food to the
8 Kosher audience and marketplace. We didn't have the Burger
9 King and McDonald's type hamburger until Mr. Huberfeld stepped
10 up. Maybe it would be better for me if he never did from my
11 weight perspective, but, yeah, good food.

12 Q. Where were these restaurants located?

13 A. There was one right near Madison Square Garden on Broadway.
14 I used to go before every Nicks and Ranger game that I would go
15 to. There were two in Brooklyn. Those are the ones I know of,
16 but I don't know if there were more.

17 Q. When you started at Platinum in 2005, were you immediately
18 assigned to work for Mr. Huberfeld?

19 A. No.

20 Q. So how did that process happen?

21 A. I joined in either January or February of 2005. Mr.
22 Huberfeld was around. His family office operated out of our
23 offices. We got along. We liked each other. We liked to eat,
24 two personalities. We got along.

25 Q. How would you describe his -- are you finished?

HAQJSEA3

Kalter - cross

1 A. Just to add to that question, at the end I -- summertime
2 Mr. Huberfeld had the idea of the asset-based lending strategy
3 in the hedge fund structure, it hadn't been done before that we
4 knew of in any material way, and he said to me I'm giving you a
5 shot, let's try to do this. That's how it happened.

6 Q. When you worked under him at Platinum and then Centurion
7 and then Platinum again, how would you describe his mental
8 state?

9 A. To the point -- first of all, he works 24 hours a day other
10 than the Sabbath, so it is 24-6. My phone could ring at 2:00
11 in the morning. It could ring at 7:00 in the morning. When he
12 traveled to other time zones, it was bananas, but he always
13 worked. He was on top of everybody. He was diligent. He
14 pushed to do it now, not to procrastinate, and he was
15 effective.

16 Q. When you worked under him as he created Centurion, you said
17 he was chief investment officer. Is that right?

18 A. Chairman and chief investment officer.

19 Q. He was the boss, essentially?

20 A. Yeah.

21 Q. He was in charge of making decisions on the appropriate
22 investments for the fund, correct?

23 A. Yes.

24 Q. He was also in charge of running the people who were
25 working under him, correct?

HAQJSEA3

Kalter - cross

1 A. Correct.

2 Q. He was responsible for making sure that people were going
3 out and marketing the new fund to get, to raise capital?

4 A. Yes, but in the early years it was three of us, and Murray
5 carried that torch and did it well.

6 Q. You had explained on direct examination how this fund
7 Centurion later was folded back into the Platinum Group,
8 correct?

9 A. Not back into, but into.

10 Q. Into? I am sorry.

11 The Centurion fund that Murray started, Platinum was
12 already up and running at that time, correct?

13 A. Yes.

14 Q. And that was the fund that your brother-in-law, Mark
15 Nordlicht, was running?

16 A. Correct.

17 Q. And that is PPVA, correct?

18 A. Correct.

19 Q. So the Centurion fund, I believe you said, was a single
20 asset-based strategy fund. Is that right?

21 A. It was an asset-based lending strategy, and within -- so
22 like if I give you real estate example, it wasn't only real
23 estate loans, it was other types of loans so the collateral
24 could change, the structure could change, but the idea was to
25 be in the lending business with collateral.

HAQJSEA3

Kalter - cross

1 Q. This was really Murray's place in terms of what the
2 investment strategy that he came up with and that he ran,
3 right?

4 A. Yup.

5 Q. That was very different from PPVA, correct?

6 A. Correct.

7 Q. Now, during the period that you were working for him under
8 Centurion, you said you were chief operating officer, right?

9 A. Correct.

10 Q. And the funds grew from when it started when you first
11 started full time in 2007 until it eventually merged with
12 Platinum in 2010, correct?

13 A. Yes.

14 Q. And it grew into, by 2013, a fund that had almost \$400
15 million in assets under management, correct?

16 A. What year was that?

17 Q. By 2013?

18 A. It sounds right, but I would need to see something to
19 actually verify it.

20 Q. Several hundred million dollars?

21 A. Yeah, it was much larger than when we started.

22 Q. During the course of when you started to do some more
23 marketing in addition to your role as chief operating officer,
24 you were able to bring in institutional advisory firms such as
25 Shepherd & Kaplan, I think you mentioned?

HAQJSEA3

Kalter - cross

1 A. Yes.

2 Q. And so there were retirement funds who invested in
3 Centurion which later became PPCO?

4 A. I believe there were retirement, but it could have been
5 other types of endowments, foundations, et cetera, so I don't
6 want to say it was only that type.

7 Q. But --

8 A. Institutional is what you're looking for, yes.

9 Q. You knew that some of these institutional investors, for
10 example, were the San Diego Union Tribune Retirement Plan?

11 A. It sounds familiar.

12 Q. The San Rico Retirement Plan?

13 A. I think so. That sounds right.

14 Q. These were all institutional investors who invested during
15 the time that you were at PPCO?

16 A. Correct, correct.

17 Q. Just to be clear, you talked a little bit on direct
18 examination about what a hedge fund is. But institutional
19 investors like pension plans do sometimes include hedge funds
20 within their investment mix. Is that correct?

21 A. To my knowledge, yeah.

22 Q. And that was consistent with what you personally saw at
23 PPCO?

24 A. Yeah.

25 Q. That makes sense because hedge funds were returning large

HAQJSEA3

Kalter - cross

1 rates of return during the period that you worked at PPCO?

2 A. Some were, some weren't. It is hard to generalize that.

3 Q. But PPCO was --

4 A. PPCO --

5 Q. Returns were averaging between 8 and 12 percent in the
6 bandwidth you talked about on direct examination?

7 A. Correct.

8 Q. So when you were -- just to complete this thought -- when
9 you were asked to pitch COBA for PPCO in the early 2014, there
10 was nothing unusual about the fact that you were being asked to
11 pitch an Annuity Fund to a labor union?

12 A. Agree.

13 Q. You had mentioned on direct examination that at the end of
14 2010, Murray Huberfeld's role at Centurion/PPCO changed,
15 correct?

16 A. Yes.

17 Q. And that was because or as part of the fact that Centurion
18 was merging into the Platinum Group of Funds, correct?

19 A. Correct.

20 Q. And Mark Nordlicht, your brother-in-law, took over at the
21 beginning of 2011 as chief investment officer of PPCO, correct?

22 A. Correct.

23 Q. Murray at that point did not have the day-to-day
24 responsibilities for making investment decisions going forward
25 at PPCO?

HAQJSEA3

Kalter - cross

1 A. Yes, he did not.

2 Q. Just to be clear, for the purposes of PPVA, Mr. Huberfeld
3 never had that position, correct?

4 A. Correct.

5 Q. You had talked about then that he had an ongoing role for
6 managing what you called legacy positions. Is that right?

7 A. Yes.

8 Q. This is correct, a legacy position means an investment
9 strategy Mr. Huberfeld had brought into PPCO that was still
10 ongoing, and so he still had relationships and would work to
11 help complete the investment signature?

12 A. Yes, but in addition to that, it wasn't just the
13 relationships, it is the knowledge base of Mr. Huberfeld having
14 with a portfolio manager or himself, having made that
15 investment, his knowledge was invaluable to help benefit the
16 investors by getting the best possible result on each
17 investment.

18 Q. In addition to that, he would also continue to go out and
19 promote the fund to potential new investors?

20 A. Well, I don't know if he himself would go and promote it
21 and do the pitch, but he would refer people typically earlier
22 on to Mr. Landesman and Mr. Kaplan, or whoever was the
23 marketing team, and then later on if it was PPCO, he would, I
24 think, mostly send it to me. It could be I just don't know of
25 others.

HAQJSEA3

Kalter - cross

1 Q. It was basically just a referral position? He was not
2 actively attending these meetings any more as an officer of the
3 management group?

4 A. To the best of my knowledge, as it happened with me, he
5 didn't attend. I don't want to say he never attended, but he
6 generally didn't attend, just because I don't remember every
7 meeting that I had from 2011 until today.

8 Q. That was no longer his role within the fund?

9 A. Right, right, he wasn't doing the pitches actively. He
10 wasn't out there saying this is me running it. It wasn't like
11 that.

12 Q. After 2011 is it fair to say he had a more informal role
13 within the Platinum fund group?

14 A. Yes.

15 Q. You also talked about different investments that he and his
16 family and charitable foundations continued to have, correct?

17 A. I spoke about that, but in the time periods of my
18 knowledge, not today.

19 A. I don't know if there is today.

20 Q. I understand. Back at the time you talked about the
21 different accounts that you remembered Mr. Huberfeld and his
22 family associated with, right?

23 A. Correct.

24 Q. And you also had said that at the time of Centurion, that
25 he had a substantial ownership interest in the management of

HAQJSEA3

Kalter - cross

1 the firm. Is that right?

2 A. Can you repeat that. I am sorry. I lost you.

3 Q. That when Centurion was created and you were working with
4 him, he had a substantial interest in the management of the
5 firm, in the management fees for the firm?

6 A. Meaning percentage of the operating, percentage of the
7 entities?

8 Q. That's correct.

9 A. Yes.

10 Q. When Centurion folded into, became PPCO in the Platinum
11 Group, do you know whether he continued to have that interest?

12 A. I believe he had the same or similar interests, except it
13 was no longer an active interest where he had control and power
14 and the rights to affect company business. It turned into a
15 passive, a passive piece of equity that didn't give him any
16 power or control of the company.

17 Q. If I could analogize, as a shareholder in a company, you
18 would have a certain percentage interest and receive a certain
19 percentage of profits, but not be able to affect the day-to-day
20 operations?

21 A. Similar, yes, similar.

22 Q. And some of the entities that you talked about on direct
23 examination that were part of the Huberfeld group of investors,
24 they were both invested in PPCO, some of them, correct?

25 A. Yes.

HAQJSEA3

Kalter - cross

1 Q. And some in PPVA?

2 A. I can't help you with that. I don't know.

3 Q. You don't know?

4 So the accounts that you talked about on direct
5 examination were accounts that you understood were accounts
6 related to PPCO?

7 A. Yes.

8 Q. You mentioned a number of his children's names and his
9 father's account and also you said two Huberfeld foundations.

10 Do you know what those were?

11 A. I think that one was Mr. Huberfeld, Senior's charitable
12 foundation, and I believe Mr. Huberfeld had one, but I believe,
13 so I could be wrong. I don't know. I don't remember exactly.
14 I think he also had a charitable foundation.

15 Q. Just to be clear, a charitable foundation investing in a
16 hedge fund means that the money that could be used for
17 donations or the purposes of the foundation were invested would
18 increase the endowment of that foundation for charitable use?

19 A. Correct, if somebody is not allocating their charitable
20 funds today, they can choose to invest that capital for growth
21 purposes so that they have more charity to give. It is almost
22 like you're doing it on behalf of the charities you haven't
23 given the money to yet.

24 Q. When the PPCO and PPVA funds merged in the beginning of
25 2011, the combined entity at that point had assets under

HAQJSEA3

Kalter - cross

1 management of approximately \$1 billion.

2 Is that your memory?

3 A. I don't remember the exact number. I think it might have
4 been a little short of a billion, but it got closer to a
5 billion by putting them together. I don't remember the exact
6 numbers at that date.

7 Q. But we looked at the 2014 pitch materials to COBA, and if I
8 told you that on that sheet, what you called the one-pager, it
9 showed the firm assets under management at that point in 2014
10 was 1.3 billion, that would be accurate?

11 A. That sounds accurate, especially if you're stipulating
12 you're reading it from the one-pagers, I will go with you. You
13 were just asking me about 2011, which is a time period I don't
14 have a recollection of.

15 Q. It certainly eclipsed 1 billion into the 2014 time period?

16 A. Yes. The funds definitely hurdled over that 1 billion
17 dollar number at some point. I don't know.

18 Q. I want to ask you some questions about Jona Rechnitz. You
19 were asked about his involvement with respect to the COBA
20 investment. Do you recall that?

21 A. Meaning on direct?

22 Q. Yes.

23 A. Sure, yes.

24 Q. You said you knew Mr. Rechnitz from the neighborhood,
25 right?

HAQJSEA3

Kalter - cross

1 A. Yes.

2 Q. And also that he was a real estate broker, correct?

3 A. Correct.

4 Q. Now, you know generally that Platinum, in addition to
5 having an internal marketing department which sometime used
6 brokers or sometimes you referred to as placement agents for
7 the purpose of finding new investors, right?

8 A. Yes.

9 Q. And brokers have a role in connecting the two sides?

10 If you have a fund and are looking for investors, and
11 the broker knows people, high net worth individuals or
12 institutional investors, they act as the middleman, right?

13 A. Yes.

14 Q. And sometimes these middlemen or match-makers, if you will,
15 would be given the promotional materials of Platinum or would
16 have the ability to know the subscription information of the
17 fund in order to talk it up to potential new investors, right?

18 A. Yes.

19 Q. Did you know at this time, in the beginning of 2014 when
20 you were told about the pitch to COBA, whether Mr. Rechnitz
21 acted this way in terms of introducing COBA to Mr. Huberfeld?

22 A. You would you just repeat the first part of the question.
23 Was I what?

24 Q. Were you aware that Mr. Rechnitz was the person who acted
25 to introduce Mr. Huberfeld to the possibility of a COBA

HAQJSEA3

Kalter - cross

1 investment?

2 A. Just he was as a placement agent?

3 Q. No. I am just saying --

4 A. Yes, I was aware that he introduced.

5 Q. You knew that because he was included in a number of email
6 correspondence between Platinum and COBA with respect to the
7 pitch meeting and other subscription information?

8 A. Sure, amongst other -- it wasn't like -- yes, we knew from
9 that and just water cooler talk.

10 Q. I am sorry?

11 A. Water cooler talk in the office.

12 Q. In other words, it was transparent that Mr. Rechnitz had a
13 role with COBA in terms of this particular investment?

14 A. I wouldn't go that far and say a role with COBA. He made
15 an introduction.

16 Q. He made an introduction? He was known to be the person to
17 have made that introduction?

18 A. Yes.

19 Q. It wasn't hidden, it wasn't anyone trying to hide Jona
20 Rechnitz had anything to do with the COBA introduction?

21 A. Not as I recollect.

22 Q. In fact, it was something that was talked about in the
23 office as water cooler talk?

24 A. I figure it was more in marketing water cooler. We had our
25 little water cooler.

HAQJSEA3

Kalter - cross

1 Q. Fair enough.

2 In fact, you testified that not only with respect to
3 COBA, but there were other potential investors that Jona
4 Rechnitz introduced to the Platinum fund; for example, the
5 COBA?

6 A. Correct.

7 Q. Now, do you know whether Mr. Rechnitz had any kind of
8 formal arrangement with Platinum with respect to being a
9 placement agent?

10 A. I don't know of any.

11 Q. As a lawyer, you're familiar, sir, with the fact that
12 placement agents or brokers in the regulated financial industry
13 have to have certain licenses. Is that correct?

14 A. That sounds correct.

15 Q. Do you know whether Mr. Rechnitz had that license?

16 A. No idea.

17 Q. Following along with that, if he didn't have that license,
18 would he be able to be paid directly as a finder or commission
19 on any particular transaction?

20 A. He would not be able to receive incentive-based
21 compensation from the fees generated by the management company.

22 Q. So, in other words, the management company of Platinum
23 couldn't pay Jona Rechnitz directly based on a commission for
24 bringing in a certain client or investor?

25 A. If you take out the word "directly" from your statement,

HAQJSEA3

Kalter - cross

1 I'll agree with it. They couldn't pay him.

2 Q. Based on a transaction or incentive for that transaction?

3 A. Correct.

4 Q. Now I am going to ask you some questions about the
5 particular pitch to COBA that you did in I think you said early
6 2014, January 2014. Is that correct?

7 A. Yes, the initial pitch you're talking about.

8 MR. SHECHTMAN: Might this be a good time to break?

9 THE COURT: We are going to take a break for five
10 minutes. Is this a good time for break or do you want to go a
11 little bit longer?

12 MR. MAZUREK: Fine, your Honor.

13 THE COURT: Let's go ahead and take our break now. I
14 will give you 35 minutes. Again so come back at 12:00 o'clock.
15 In the meantime, don't discuss this case amongst yourselves or
16 with anyone else. Don't do any independent research regarding
17 any of the issues of this case. See you at 12:00 o'clock.

18 (Jury excused)

19 THE COURT: Again let's give the jury a three and a
20 half minute head start so they can gather their belongings and
21 get moving, and we'll excuse the witness and talk to counsel.
22 Let's give the jurors a three and a half minute head start and
23 then I'll address the issues that counsel and the parties have
24 to raise. We may use the robing room. You can all sit down.

25 (Pause)

HAQJSEA3

Kalter - cross

1 THE COURT: Everyone in the audience, you're free to
2 go now. The witness is excused. Any reason I shouldn't excuse
3 the witness, counsel? No, hearing none, the witness is
4 excused.

5 (The witness left the courtroom)

6 THE COURT: Counsel all present? Counsel, all here?
7 The parties are here? one quick thing. Please be quiet in the
8 audience.

9 One thing to just, I want to talk to the parties about
10 briefly. Let's talk about my final instructions to the jury
11 today. Hopefully after this break we can go straight till
12 2:30, and then I will let them go. I plan to give them the
13 usual instructions unless there is something else that counsel
14 wish me to add. It may make sense at this point to sort of
15 gently remind the jurors it is important for them to get here
16 at 9:00 o'clock, but let me hear from counsel on that.
17 Anything else from counsel? Let me hear from the government
18 and defense counsel.

19 MR. CAPONE: Two things, your Honor:

20 First, we agree that a reminder is appropriate;

21 Second, I think the defense has a request to stop a
22 little early tomorrow.

23 THE COURT: Let me hear.

24 MR. MAZUREK: I have no problem with your suggestion
25 for admonition. For tomorrow, your Honor, because my client is

HAQJSEA3

Kalter - cross

1 an observer of the Sabbath and the sun sets around 5:00, and he
2 has to get out and prepare to his home in Long Island, whether
3 we could adjourn for the day 1:30 until 2:30.

4 THE COURT: I looked on time and date dot com, and
5 according to that website, sunset tomorrow is at 5:58 pm. So
6 it seems that I think 2:30 should still work, but let me hear
7 more from counsel as to why -- I am certainly willing to make
8 appropriate accommodations, but even if we leave -- I am not
9 sure why he wouldn't be able to make it to Long Island in that
10 period of time by 5:00. Sunset it is supposed to be at 5:58
11 tomorrow.

12 MR. MAZUREK: I am informed that Sabbath begins 18 or
13 20 minutes before that. That aside, Mr. Huberfeld told me it
14 took him almost two and a half hours to get home last Friday
15 from the city. I leave it up your Honor.

16 THE COURT: We can stop a little early. If it did
17 take two and a half hours, as long as he is out of here by
18 3:00, it should be fine. I am willing to to stop a little
19 early. We can stop at 2:00 if that makes it easier.

20 MR. MAZUREK: Sure, that is fine.

21 THE COURT: We can do that. We'll stop at 2:00
22 tomorrow. I will let the jury know that. Remind me. I will
23 let the jury know that. Let me find out what counsel feel?

24 Should I let the jury know that today? I don't think
25 they'll complaint if we break at 2:00 o'clock instead of 2:30

HAQJSEA3

Kalter - cross

1 tomorrow. It might not be necessary to let them know.

2 MR. MAZUREK: Maybe for their own planning purposes?

3 THE COURT: I will tell them 2:00 o'clock tomorrow. I
4 will remind them they should try to get here at 9:00 o'clock or
5 by 9:00 o'clock. Is there anything else counsel need to raise?

6 MR. MAZUREK: No.

7 THE COURT: Try to get here, counsel, by 11:57. The
8 witness is gone. From defense counsel, how much longer do you
9 have with this witness?

10 MR. MAZUREK: Maybe like 45 minutes.

11 THE COURT: All right.

12 MR. MAZUREK: I will try to be brief, I know.

13 THE COURT: All right.

14 (Luncheon recess)

15 (Continued on next page)

HAQPSEA4

Kalter - Cross

A F T E R N O O N S E S S I O N

12:04 P.M.

(Trial resumed; jury not present)

THE COURT: Okay. Let's go ahead and have the witness on the stand so as soon as the jurors are ready, we can start.

MR. SHECHTMAN: Your Honor?

THE COURT: Yes.

MR. SHECHTMAN: I will have cross-examination. I promise it won't be more than two or three minutes, very short.

THE COURT: Okay. Counsel, while we're waiting, are there any exhibits that you're going to want to introduce into evidence that are not currently in evidence?

MR. MAZUREK: No.

THE COURT: Okay. Co-counsel, are there any exhibits that you're going to want to introduce in evidence that aren't currently in evidence?

MR. SHECHTMAN: There's a government exhibit. It will come in. I just want to alert Mr. Capone.

THE COURT: Can you just confirm that there's no objection to it so we can put it on the screen immediately.

MR. SHECHTMAN: Yes. We're okay.

THE COURT: All right.

MR. SHECHTMAN: We won't slow it down.

THE COURT: All right. Okay. Are they all here?

THE DEPUTY CLERK: Yes.

HAQPSEA4

Kalter - Cross

1 THE COURT: Okay. Let's go.

2 (Jury present)

3 THE COURT: Okay. Please be seated. Welcome back.
4 Let's continue with the case on trial. Go ahead, counsel.

5 MR. MAZUREK: Thank you, Judge.

6 BY MR. MAZUREK:

7 Q. Good afternoon, Mr. Kalter.

8 A. Good afternoon.

9 Q. Let me start off, after the break, with questions relating
10 to the fee structure for the management that you were talking
11 about on direct examination and called it the two and 20; do
12 you remember that?

13 A. Yes.

14 Q. And you were speaking about your understanding at PPCO at
15 the time, correct?

16 A. Yes, but I believe the question was also about -- I don't
17 remember exactly, but I believe both were two and 20, for the
18 most part.

19 Q. When you say both --

20 A. PPVA.

21 Q. -- you mean PPVO and PPCO?

22 A. Yes.

23 Q. Just so I understand it correctly, the two percent that you
24 talked about, which is a flat percentage of the amount of the
25 investment holdings on an annualized basis; is that right?

HAQPSEA4

Kalter - Cross

1 A. Yes, payable monthly. So it's one-twelfth of two percent
2 per month based on that month's value of the assets under
3 management.

4 Q. Based on your experience at PPCO, do you understand that
5 that portion of the fee that is used by the hedge fund, goes to
6 things such as to the operations of -- paying for the
7 operations of the fund; is that fair?

8 A. Yes.

9 Q. Okay. And then the 20 percent of the fee structure, which
10 is on profit returns, really is the profit center for the
11 management, correct?

12 A. Yes, but in theory it works like that. I'm addressing the
13 last two questions. There could be leftover of the two percent
14 that would then get distributed to the partners. There could
15 be a year where the two percent has a shortfall, and the 20 is
16 used for the operations as well.

17 Q. Understood. But in either of those scenarios, still the
18 majority of a manager's compensation structure comes from that
19 20 percent?

20 A. Yes.

21 Q. Okay. Now, were you familiar in 2014 and '15, especially
22 when you started to move over to PPVA, what the ownership
23 structure was at PPVA, in terms of the partners?

24 A. Not fully. Not fully.

25 Q. Can you explain what your understanding was?

HAQPSEA4

Kalter - Cross

1 A. Yes. I can't remember all the players and what their
2 breakdown was in the PPVA side. I want to clarify your
3 question. I never officially moved over to the PPVA side; so
4 my knowledge is just, you know --

5 Q. Do you know who the general partner or the managing partner
6 was?

7 A. Absolutely, Mark Nordlicht.

8 Q. Did he have a substantial ownership interest in PPVA?

9 A. Could you define substantial?

10 Q. More than 50 percent?

11 A. I don't believe so.

12 Q. Okay. Less than? Do you have an understanding of how
13 much?

14 A. Him and his trust, together, were probably more than
15 50 percent.

16 Q. Okay.

17 A. But because of the fact that his trust had other
18 beneficiaries --

19 Q. Okay.

20 A. -- I say he's less -- I think he was less than 50 percent,
21 but again, I think. I don't know.

22 Q. Understood. When you say him and his trust, meaning
23 Mr. Nordlicht personally and the trust, which also had a number
24 of Nordlicht-related beneficiaries?

25 A. Had a number of beneficiaries, not Nordlicht related.

HAQPSEA4

Kalter - Cross

1 Q. You don't know?

2 A. I don't believe they were Nordlicht related.

3 Q. Okay. And there were other partners other than
4 Mr. Nordlicht and his trust?

5 A. Yes.

6 Q. And do you know who they were?

7 A. Mr. Landesman. I don't know about Mr. Levy. I don't know
8 if they ever put me down as an equity owner of PPVA because I
9 never assumed that role. I don't know where they went in flux
10 as I was leaving. I don't know what happened with those
11 documents and percentages.

12 Q. Do you know whether or not Mr. Huberfeld had any kind of
13 interest?

14 A. Via the trust.

15 Q. Via the trust that you mentioned with Nordlicht?

16 A. Correct.

17 Q. Okay. He was one of the beneficiaries?

18 A. An entity of Mr. Huberfeld's, unless that was changed and I
19 didn't know about it.

20 Q. Do you have any idea what percentage that entity had in the
21 trust?

22 A. I don't.

23 Q. Do you know how many beneficiaries of the trust there were?

24 A. I believe there were three.

25 Q. Three. Okay. So in addition to Mr. Nordlicht, the trust,

HAQPSEA4

Kalter - Cross

1 which had multiple beneficiaries, Mr. Landesman, Mr. Levy, were
2 there any other significant partners in PPVA? Do you know
3 whether Mr. Bodner was a partner?

4 A. Via the trust.

5 Q. Anyone else?

6 A. Are you referring to any specific time period? I think you
7 said '15 and '14?

8 Q. Yes.

9 A. I think that's it, but again, it's a fuzzy recollection.

10 Q. There may be others?

11 A. There may be, yeah.

12 Q. Okay. And so I understand, in this kind of partnership --

13 A. Yes, I thought of one other. There definitely is one
14 other, Mr. Fuchs.

15 Q. Mr. Fuchs, okay. And do you have any sense of the
16 percentage share of the other partners that you've mentioned
17 combined, Landesman, Levy and Fuchs, approximately?

18 A. I think Mr. Fuchs was ten percent, and I do not know how
19 Landesman and Levy broke down at the end.

20 Q. So I have a better understanding of this, can you explain
21 then, with respect to the management fee structure and we'll
22 talk about the performance fee part, which I think you've
23 testified to as sort of the profit center, the 20 percent, how
24 that would then be divided among the different partners?

25 A. Via the percentages that I wasn't able to provide to you?

HAQPSEA4

Kalter - Cross

1 Q. Okay. So if there are, as you said, four or five -- let's
2 say five different people or entities that are within the
3 ownership structure, the profits that the management team would
4 make would then be divided by those five people according to
5 their shares?

6 A. Yes, but it would really be divided in two layers, right?
7 It would be divided not by those five people. It would first
8 be divided by the trust, Mr. Nordlicht and the other people,
9 and then the trust would distribute. So it wasn't one big
10 division, like everybody sat in the room and divided it up.

11 Q. Right. So let's take the trust, for example, just saying
12 that the trust would get whatever percentage the trust had, and
13 then under the trust there are multiple beneficiaries, where
14 the trust amount would then have to be divided by the multiple
15 beneficiaries?

16 A. Yes. And I don't believe that at the PPCO side, that PPCO
17 people administer the trust. They could have, but I don't
18 recall them doing that. I think it was run by other people.

19 Q. Okay. So if I can put this into a specific example, if,
20 for example, in a given year there is a \$20 million
21 contribution, which is the amount that COBA invested into PPVA
22 for 2014, and for simplicity's sake, if there is a ten percent
23 return at the end of the year, that would be \$2 million that
24 would go into the performance part of the management fee,
25 correct?

HAQPSEA4

Kalter - Cross

1 A. Sounds right.

2 Q. Okay. Of that \$2 million, 80 percent, or \$1.6 million goes
3 to COBA, correct?

4 A. Correct.

5 Q. The investor?

6 A. Yes.

7 Q. And then \$400,000 is the profit that's left over for the
8 PPVA managers, correct?

9 A. Yes.

10 Q. Now, if, in the course of that year, the two percent
11 doesn't cover overhead and the operations of the fund, then
12 some of that \$400,000 would have to be used for that, correct?

13 A. Correct.

14 Q. If, however, the two percent does cover, then the 400,000
15 then may be distributed to all of the ownership or management
16 groups of the PPVA, correct?

17 A. Yes.

18 Q. And if there are -- even if they're divided equally among
19 five different entities, that \$400,000 is 80,000 for each of
20 the five different entities, in my hypothetical?

21 A. Yeah, rough math, sounds -- if everybody is equal. I
22 assume you just took 400 and divided by five.

23 Q. Yes. If that wasn't the case, there were actual
24 percentages for each of the partners?

25 A. Yes.

HAQPSEA4

Kalter - Cross

1 Q. And that would be how, roughly, the amounts are distributed
2 for management fees on any particular -- or by investor?

3 A. One more time, I'm sorry. I didn't understand the
4 question.

5 Q. That would very generally be how fees are -- would be, once
6 they come into the fund, how they may be distributed down the
7 line, according to the percentage --

8 A. Yeah.

9 Q. -- interest of --

10 A. Right.

11 Q. -- every particular owner?

12 A. Yes, yes.

13 Q. And if an owner is a trust, then again, it has to be
14 divided by multiple times, according to the number of
15 beneficiaries within that trust?

16 A. Not by the number of beneficiaries, by the percentage --

17 Q. Yes.

18 A. -- of their ownership of the trust.

19 Q. Right. Again, because each -- whoever the beneficiary is,
20 they would be designated as certain percentage ownership of the
21 trust?

22 A. Correct. And, therefore, that ownership would convert into
23 the income of the trust being divided by that ownership
24 percentage.

25 Q. That just highlights that there are very many multiple

HAQPSEA4

Kalter - Cross

1 layers in terms of how the profits, the fees, the \$400,000,
2 trickled down to the ultimate recipients of the income of the
3 company, correct?

4 A. Can you say the question again? I'm sorry. I didn't
5 understand. It sounded like a statement, not a question.

6 Q. The hypothetical we went through, and your explanation,
7 just shows that there are multiple levels that the management
8 fee distribution would have to take before it gets to its
9 ultimate recipients?

10 A. Fair.

11 Q. Fair enough? Okay. I'm going to ask you now specifically
12 about the COBA pitch at the end of 2013, beginning of '14.

13 MR. MAZUREK: And if we could publish, your Honor, to
14 the jury what's already admitted into evidence as Government
15 Exhibit 1016, the first page, please.

16 THE COURT: Okay. Do the jurors have it?

17 JURORS: No.

18 (Pause)

19 THE COURT: Okay. Go ahead, counsel.

20 BY MR. MAZUREK:

21 Q. Ready? Okay. On your screen is, I think, an exhibit that
22 you reviewed on direct examination, an e-mail from Joseph
23 Ritterman; do you see that?

24 A. Yes.

25 Q. And this e-mail is sent to Jona Rechnitz, copying Murray

HAQPSEA4

Kalter - Cross

1 Huberfeld, subject: Platinum materials, correct?

2 A. Yes.

3 Q. And Mr. Ritterman writes Jona directly saying: Jona,
4 please see the attached PPM and subscription document for
5 Platinum Partners Credit Opportunities Fund, LLC. If you have
6 any questions or require further information, please do not
7 hesitate to contact me, correct?

8 A. Yes.

9 Q. Now, Mr. Ritterman is sending what's called a PPM to
10 Mr. Rechnitz. PPM, that's a private placement memorandum; is
11 that right?

12 A. Yes.

13 Q. And that is sort of the memorandum that describes the
14 investment fund and the possibility to subscribe to the terms
15 under which --

16 A. Plus much more, but yes.

17 Q. Okay. What's the much more?

18 A. It talks about not only subscribing to the company, but it
19 talks about the terms of your subscription in the most robust
20 place you'll find it. The one-pager doesn't give you the
21 information the PPM gives you. It talks about the risks of
22 investing. It talks about the conflicts of interest that the
23 manager may have amongst tons of different conflicts. It talks
24 about how taxes are treated, how ERISA is treated. It talks
25 about tons and tons of things that I am not going to nail

HAQPSEA4

Kalter - Cross

1 everything in this --

2 Q. That's quite all right.

3 A. -- right here, but it's a very large, robust legal
4 document.

5 Q. Okay. And it's being sent to Mr. Rechnitz in this
6 instance. Do you have an understanding why it would be?

7 A. No idea.

8 Q. Okay. And in your experience at PPCO, sometimes would you
9 be aware if there is a placement agent or a person who's
10 introducing a prospective investor, they would get copies of
11 the private placement memorandum or subscription documents
12 relating to that investor?

13 A. I'm sorry to do this to you. Could you repeat the first
14 part of the question? I don't know what I'm answering.

15 Q. In your experience at PPCO, would it be common for the
16 private placement memorandum and subscription documents for a
17 potential investor to be sent to the placement manager?

18 A. I didn't deal directly with many placement agents; so I
19 don't know if it's common, but I suppose, as I mentioned on
20 direct, that it wouldn't be weird if somebody wanted to see the
21 PPM before a meeting. That definitely has happened in the
22 past.

23 Q. The person who might be introducing a potential investor
24 and acting as an agent in some respects or broker or middleman,
25 it wouldn't be weird for them to get a copy of these materials,

HAQPSEA4

Kalter - Cross

1 correct?

2 A. It would not be weird, correct.

3 Q. Okay. And I think you said on direct, or even in cross,
4 that your understanding was Mr. Rechnitz is the one who made
5 the introduction of COBA to Platinum, or you had heard that?

6 A. Yes. He made the introduction to Platinum, yes.

7 Q. Okay. Now, the private placement memoranda and
8 subscription documents that are attached to this e-mail are for
9 the PPCO fund, correct?

10 A. Yes.

11 Q. And only the PPCO fund, correct?

12 A. That's what it looks like.

13 Q. Okay. And that is the fund that you were working for at
14 the time, correct?

15 A. Correct.

16 Q. In fact, the chief operating officer, right?

17 A. Correct.

18 Q. And this was also the fund that originally was founded at
19 Centurion by Mr. Huberfeld?

20 A. Yes.

21 Q. It was the fund that he had -- the only part of the fund
22 that he actually had investment responsibilities and was the
23 chief investment officer for, correct?

24 A. The only part of what?

25 Q. Platinum.

HAQPSEA4

Kalter - Cross

1 A. So the question is, the only part of Platinum that he had
2 responsibility for?

3 Q. That he had investment responsibilities for at Platinum?

4 A. I'm going to say I believe so because I don't want to be
5 overly inclusive, but I think so.

6 Q. But there was the credit fund that he was the chief
7 investment officer of?

8 A. Yes.

9 Q. Now, in this e-mail in Government Exhibit 1016, PPVA is not
10 being provided, correct?

11 A. It doesn't appear so.

12 Q. Were you aware, when you were asked to pitch to COBA,
13 whether there was a decision to include all of the funds or the
14 major funds, PPCO and PPVA, in the pitch to COBA?

15 A. Yeah, because the meeting was designed that Uri and Andrew
16 would do PPVA, and I would do PPCO; so therefore, I knew those
17 two funds were being presented.

18 Q. Were you involved in any meetings or discussions leading up
19 to the pitch talking about what strategy, marketing strategy
20 you would take in terms of which of the two funds you would
21 push for COBA?

22 A. I don't recall anything happening, any meeting happening
23 about that.

24 Q. Okay. The next thing you remember is attending that
25 meeting on January 13th, around that time in 2014, correct?

HAQPSEA4

Kalter - Cross

1 A. Correct.

2 Q. And Murray Huberfeld did not attend any COBA pitch meeting,
3 correct?

4 A. He did not.

5 Q. You were asked on direct examination about a particular
6 term in the subscription agreements for both COBA, the annuity
7 fund and the general fund, which indicated an acknowledgment by
8 the investor that they would have to bear the economic risk of
9 a potential total loss of the investment; do you remember that?

10 A. Yes.

11 Q. That provision in the subscription agreement for Platinum
12 was the standard term?

13 A. Yes.

14 Q. And it was the standard term, as you understand it, within
15 the hedge fund industry generally, correct?

16 A. Yes.

17 Q. Okay. We can take the exhibit down now.

18 In the meeting on January 13th, 2014, before the COBA
19 board of trustees, I think your testimony was both sides -- you
20 pitched PPCO, Mr. Landesman pitched PPVA, both funds were
21 pitched, right?

22 A. Yes.

23 Q. You don't remember exactly when the decision was made to
24 select PPVA over PPCO?

25 A. Correct.

HAQPSEA4

Kalter - Cross

1 Q. But it was sometime shortly thereafter?

2 A. I believe so. I believe it was shortly after.

3 Q. Now, you talked about, again, a little bit about the
4 differences between the two funds, and is it fair to say that
5 PPVA could be described as the more liquid of the two funds?

6 A. I don't know how to answer that question.

7 Q. Well, let me put it this way, then, to make a more specific
8 question. Both PPVA and PPCO had notice period requirements
9 before you could take out your investment, correct?

10 A. Yes.

11 Q. And what that means is that if you want to withdraw money
12 or make a redemption request, you had to do it certain days in
13 advance, and at the end of that notice period, then you would
14 get your money, correct?

15 A. Correct.

16 Q. And for PPVA, that standard notice period, when you'd have
17 to tell them, you know, you want your money and before you got
18 your money, was 90 days, correct?

19 A. Sounds right.

20 Q. And for the PPCO, during that same time period, it was six
21 months?

22 A. Correct.

23 Q. So if you're interested in getting your money sooner, the
24 better of the two funds would be PPVA, correct?

25 A. Correct.

HAQPSEA4

Kalter - Cross

1 Q. Now, in this particular instance when COBA picked PPVA as
2 its investment choice, you talked about side letters that were
3 negotiated between the two sides, right?

4 A. Yes. We saw them.

5 Q. We saw them. There was one in March and one in June?

6 A. Sounds right.

7 Q. And the one in June, for example, had a provision where
8 that notice period, the 90-day notice period, could be reduced
9 to three days, at least for \$1 million of the investment,
10 correct?

11 A. Yes.

12 Q. And both of the side letters included provisions which said
13 if I'm going to withdraw money, I want cash back and not some
14 share in some kind of other asset, correct?

15 A. Yes. No payment in kind.

16 Q. No payment in kind. And side letters, you said, were
17 something that Platinum would do on occasion on behalf of
18 investors, correct?

19 A. Yeah, there were a number of them.

20 Q. And they were something that were negotiated between the
21 two sides, the lawyers on the investor's side and the lawyers
22 for the fund, correct?

23 A. It didn't have to be the lawyers. It could have been the
24 marketing people or Mark. The lawyers might have documented
25 it, but it doesn't mean they negotiated it.

HAQPSEA4

Kalter - Cross

1 Q. Okay. But Platinum would not offer concessions of their
2 standard terms. They would have to be presented by the
3 investor and say we want some changes here, and what the
4 ultimate side letter represents is going to be the result of
5 that kind of negotiation?

6 A. I can't tell you what other people did. I can only tell
7 you that I wouldn't offer anything until somebody came and
8 said, we're going to write you a check for X but... Okay?
9 Once that "but" comes, that's when the negotiations start. But
10 I don't know what other people did.

11 Q. Were you involved in the negotiations with respect to the
12 COBA investment?

13 A. I don't remember. I know I spoke to Mr. Wien, lawyer to
14 lawyer, but I don't remember -- I don't remember if I
15 negotiated, or I was just doing what others negotiated to help
16 get the side letter done.

17 Q. But you know there was a negotiation because the side
18 letter -- there were side letters for these two different
19 investments?

20 A. There was some sort of either negotiation or line in the
21 sand. I don't know where it went. I don't know how it
22 happened, but it happened.

23 Q. And at times, does Platinum draw that sand in the line and
24 say, look, we would love to have you come aboard in this
25 investment, but these are things that we can't concede?

HAQPSEA4

Kalter - Cross

1 A. Yeah. If somebody asks you to work for free, you're
2 probably going to say no. I don't know where that line is
3 drawn. It's a tough line to say, but yes, there certainly is a
4 line.

5 Q. And that line is determined by the chief management, Mark
6 Nordlicht and them?

7 A. Yes.

8 Q. The whole process that you were involved in with the pitch
9 meeting in January 2014, up to the time when COBA made its
10 initial subscription in June of 2014 -- or March of 2014, would
11 it be fair to say that, for you, that was a fairly standard
12 process?

13 A. I wasn't involved after that pitch; so I don't know what
14 transpired, but if you're asking me on a timeline perspective,
15 sure. Some people move quickly. Some people take a year. It
16 just depends on everybody's style. There's no industry
17 standard. You have to do diligence for X, that doesn't exist.

18 Q. The pitch itself, I think you already testified on direct,
19 was fairly standard in terms of your experience, the first
20 pitch made?

21 A. Yes, slightly short because of the fact that we were
22 splitting the time, but that made sense in totality.

23 Q. And you said the board of trustees were engaged with
24 questions from the other side and potentially also from the
25 financial advisor who was present?

HAQPSEA4

Kalter - Cross

1 A. Potentially from the financial advisor, but definitely a
2 bunch of questions; so that it has to be at least some trustees
3 because they weren't all from one person.

4 Q. One other question on -- you were asked some questions
5 regarding redemptions and what redemptions mean. That's the
6 withdrawals from the fund, correct?

7 A. Yes.

8 Q. The process by which an investor would have to undertake to
9 withdraw its money, if there is a notice period. They would
10 have to give notice, whatever that period is. With PPVA, you
11 said it was 90 days, correct?

12 A. I believe it's 90 days from the one pager, yes.

13 Q. And that would mean on the 90th day, the payment would be
14 forwarded by Platinum to the investor?

15 A. No. The way that it would work is the redemption date
16 would be 90 days after -- let's start over again.

17 An investor gives 90 days' notice before any calendar
18 quarter. That's the redemption process. So if an investor
19 wants their money out by December 31 as the redemption date,
20 that's the date they strike them as not in the fund. They
21 might not get their money -- they would have to give notice 90
22 days prior to December 31. Okay? But I believe the fund had
23 the right to not send the cash out for 30 more days. So they
24 had from December 31 to January 31 or January 30, whatever 30
25 days is, to wire the capital.

HAQPSEA4

Kalter - Cross

1 Q. Okay. And if a redemption request is made, let's do it
2 under your example, September 30th and then it comes to
3 December 31st, the investor would always have the opportunity
4 to recant or withdraw that redemption request, correct?

5 A. Yes.

6 Q. And that means their investment would stay put, correct?

7 A. Yes, unless the manager wanted them out. The manager, in
8 PPCO for sure, I believe PPVA had the same right, the manager
9 can force an investor out if they don't want them anymore.

10 Q. Okay. So you were asked to look at a number of e-mails on
11 direct examination from Mark Nordlicht talking about reds
12 versus subs; do you remember those?

13 A. I remember reds. Oh, yeah, I don't remember -- yeah, sure.

14 Q. And reds is short for redemptions, correct?

15 A. Yes.

16 Q. And subs is short for subscriptions?

17 A. Yes.

18 Q. Okay. And if an investor is making a request in September,
19 the end of the third quarter, for a December or end-of-December
20 or January payment, according to the terms of the agreement,
21 there may be requests made, millions of dollars of requests
22 made that are never actually paid because the investor might
23 withdraw or recant that redemption request before the end of
24 the period?

25 A. Yes.

HAQPSEA4

Kalter - Cross

1 Q. And that sometimes happened in your experience?

2 A. I believe so. I can't cite a specific instance, but I
3 believe so.

4 Q. And Mr. Nordlicht's role at PPVA, as the general manager,
5 was it fair to say that he was always the sort of guy who would
6 push, especially the marketing team, to bring in new money?

7 A. Yes.

8 Q. And would you describe his style in terms of how he would
9 motivate his people to go out and get new subscriptions, that
10 it was lighting a fire under them in a sort of panicky way, in
11 a way that he was very -- he didn't have a light touch; is that
12 fair to say?

13 A. I can't answer that because I wasn't really part of the
14 marketing team. Okay? So I didn't get those rah-rah speeches,
15 but so for me, I wasn't raising money for PPVA, and I was doing
16 a pretty good job at PPCO; so, you know, I don't know. I don't
17 know.

18 Q. Okay. Fair enough. Fair enough. But he, Mr. Nordlicht,
19 was also your brother-in-law, in addition to being the head of
20 the PPVA?

21 A. He still is.

22 Q. He still is. And how would you describe Mr. Nordlicht?

23 A. He's not -- I don't think he's the head -- I answered your
24 question. Can we break that down? I'm sorry. I don't know
25 what I answered there.

HAQPSEA4

Kalter - Cross

1 Q. Mr. Nordlicht is still your brother-in-law?

2 A. Yes.

3 Q. And back in 2014 and '15 he was the head of the PPVA,
4 correct?

5 A. Yes.

6 Q. And in your experience, while you were working at Platinum,
7 how would you describe his management style?

8 A. Intense, exciting, kind of like at the edge of your seat
9 always.

10 Q. Yes.

11 A. Always something happening, always something, you know --
12 always working on something, be it, you know, I'm talking about
13 portfolio related, investments. There was always a new this,
14 that he was always excited about, and he had a pretty good
15 foresight in these investments; so that's his style, I guess.

16 Q. Okay. And was he always excessively worried about
17 redemptions in the fund and making sure that new capital was
18 coming in?

19 A. Again, not my area of expertise on the PPVA side. So I
20 can't -- I have no comparative knowledge of all periods; so I
21 can't tell you always. I don't know.

22 Q. Well, let me ask you this. In the period of 2014 to 2015,
23 do you have any memory that there was any increased worry about
24 redemptions during that point in time?

25 A. Again, I can't answer if there was an increased worry. I

HAQPSEA4

Kalter - Cross

1 don't know how it ran before that. You're asking me to compare
2 to things that I don't have knowledge of.

3 Q. No, I'll just ask you not to compare, but do you have any
4 memory in that time period, 2014, '15, about a worry about
5 redemptions?

6 A. I don't know if I would use the word "worry." There were
7 redemptions, but it sounded to me like the Mark Nordlicht that
8 I just described, who, you know, he had a plan, he had a way to
9 meet those redemptions, and it wasn't something I focused on at
10 all.

11 Q. Was there any focus on it at Platinum at that period of
12 time, that you remember?

13 A. There was -- there were redemptions and they were working
14 on how to meet those redemptions, but that's all I really know.

15 Q. Okay. Redemptions are just an ordinary part of running a
16 hedge fund, correct?

17 A. Yes.

18 Q. Especially when you're running a hedge fund where a lot of
19 the investors are individuals or family investors, correct?

20 A. Yeah, but I think that at all levels of hedge funds you
21 have to be mindful of redemptions.

22 Q. That's just one of the normal things that you have to do if
23 you're a manager of a hedge fund, is to be able to deal with
24 the volatility of redemptions, correct?

25 A. Unless you don't have a provision for redemptions until the

HAQPSEA4

Kalter - Cross

1 end of a certain time period, then you don't have to worry
2 about redemptions.

3 Q. Right. But in the normal course, when you do have
4 redemption, or that the subscription agreements allow
5 redemptions, that's just something that you have to deal with
6 in an day-to-day operations?

7 A. Here's how I'll say it. In an open-ended hedge fund, which
8 means it's open, it's open for new investors and it's open for
9 investors to leave, you have to be mindful of redemptions.

10 Q. And there are different ways that you can deal with
11 redemptions, correct, within the fund?

12 A. Yes.

13 Q. By raising new money, that's one of the ways to deal with
14 it, correct?

15 A. Correct.

16 Q. You can liquidate existing positions that the fund has in
17 order to deal with redemptions?

18 A. Correct.

19 Q. You can take out loans in order to deal with short-term
20 shortfalls when you need to make redemptions during the period?

21 A. I don't know about that.

22 Q. You're not familiar with that?

23 A. Yeah, I -- yeah, I don't -- I don't know about taking out
24 loans to -- I guess you could, but in my mind, I hadn't come up
25 with that one.

HAQPSEA4

Kalter - Cross

1 Q. Okay. But there are different financing techniques or
2 vehicles that would be available in order for a hedge fund
3 manager to plan and respond to redemption activity?

4 A. Yeah, I think the ones that you just mentioned.

5 Q. Now, on some of the e-mails that you were asked about on
6 direct examination relating to COBA, we saw that Mr. Huberfeld,
7 were either forwarded e-mails on occasion or sometimes copied,
8 correct?

9 A. Yes, we saw that.

10 Q. And that's not something that was unusual for you to see in
11 this particular instance with respect to COBA investments,
12 right?

13 A. It doesn't seem unusual.

14 Q. And the reason for that is you understood that
15 Mr. Huberfeld was responsible for generating this particular
16 investor, correct?

17 A. For making the referral.

18 Q. For making the referral?

19 A. To Platinum, the Platinum market.

20 Q. I see. So the referral partner would be the one who may be
21 kept in the loop as to what was going on with that particular
22 investor?

23 A. It depends on who's the one keeping in the loop and their
24 style.

25 Q. In this instance, it was Mr. Nordlicht?

HAQPSEA4

Kalter - Cross

1 A. I think we also saw Mr. Landesman, too, but that was the
2 way they handled it.

3 Q. Okay. Again, that would not be anything unusual if the
4 referral partner was associated somehow with that investor?

5 A. I don't think so. I could be wrong, but I don't think so.

6 Q. It didn't strike you as unusual?

7 A. I wasn't really on those e-mails. I didn't see them until
8 prep; so I can't give you my state of mind back then because I
9 wasn't on them.

10 Q. No, I'm just saying today there's nothing unusual about, in
11 your experience as --

12 A. If there was anything, if there was anything that seemed
13 unusual, the explanation that you just gave seems reasonable.

14 Q. Okay.

15 MR. MAZUREK: Just one moment, your Honor.

16 (Pause)

17 Q. You indicated that as of October 2014, the Platinum fund
18 moved offices; is that right?

19 A. I don't think I gave an exact month, but it was the end of
20 '14.

21 Q. End of '14. And they --

22 A. Like, not the very end, but like near. You know, October
23 would be in that range. I just don't know if it was October.

24 Q. Okay. And at that point, the Platinum moved from 57th
25 Street to 55th Street, I think was your testimony?

HAQPSEA4

Kalter - Cross

1 A. Correct.

2 Q. And you moved over with them, right?

3 A. Correct.

4 Q. Mr. Huberfeld did not, he did not take up an office on 55th
5 Street?

6 A. I don't believe he had an office on 55th Street.

7 MR. MAZUREK: I have no further questions, your Honor.

8 MR. SHECHTMAN: Very brief.

9 THE COURT: Do you have cross-examination? Okay.

10 CROSS-EXAMINATION

11 BY MR. SHECHTMAN:

12 Q. Mr. Kalter, I promise you I will be very brief.

13 A. Take as much time as you need. Or don't.

14 THE COURT: I'll be the judge of that. Go ahead,
15 counsel.

16 THE WITNESS: Sorry, your Honor.

17 MR. SHECHTMAN: Can we just take one second to get
18 caught up here?

19 Ms. Granquist, can you put up Government Exhibit 402.
20 It might be easier, if the government has it, just put it up,
21 402, and I think we're going to -- yes, that's the -- is that
22 up? Go to Page 20.

23 BY MR. SHECHTMAN:

24 Q. You were shown this earlier, and if you look down at the
25 bottom -- yes, make that a little bigger for the jury. I think

HAQPSEA4

Kalter - Cross

1 you were shown this, and you were asked whether this fund,
2 which is the Platinum Partners Value Arbitrage Fund, which is
3 the fund that COBA invested in, whether the returns were more
4 variable than the other fund, and I think your answer is yes;
5 am I correct about that?

6 A. Yes, I think the numbers don't lie.

7 Q. I think the numbers don't lie. And you particularly
8 pointed to the number 4.37 as one of the yearly returns?

9 A. Yes, that's 2008.

10 Q. Right. And I'd be correct that 2008 was what some people
11 would call the great recession?

12 A. I don't know if I've heard it called the "great recession,"
13 but it was a very, very, very bad part of the cycle.

14 Q. And the stock market dropped dramatically?

15 A. Yeah.

16 Q. So that if you were invested just in stocks, you would have
17 lost a lot of money that year?

18 A. Sounds right. Or maybe not. Some people could have gone
19 the right way on the market.

20 Q. If they short?

21 A. Short.

22 Q. But if you were just invested in stocks, you would have
23 lost money, and that firm earned 4.73 percent, right?

24 A. If you invested long in stocks, you likely --

25 Q. If you invested long in stocks, you would have lost a lot

HAQPSEA4

Kalter - Cross

1 of money. The firm earned 4.73 percent during that recession
2 year?

3 A. Yeah.

4 Q. Okay. And the year before that, they earned 53 percent?

5 A. I see that.

6 Q. So that if you had invested 20 million at the beginning of
7 the year, you would have had 30 at the end?

8 A. Yes.

9 Q. Okay. Ms. Granquist, could you put up Government
10 Exhibit -- I'm going to ask some questions as you get ready --
11 1047.

12 You attended that July 29th, 2014, board meeting?

13 A. Yes.

14 Q. By yourself?

15 A. Yes.

16 Q. For the Platinum side?

17 A. Yes.

18 Q. And you were a last-minute pinch hitter?

19 A. I would call myself a last minute hologram reading other
20 people's words in that meeting.

21 Q. Nervous when you started?

22 A. Nervous when I started what?

23 Q. When you went there?

24 A. I don't really have stage fright.

25 Q. Let's put up 1047. Okay? Would you look at that? That's

HAQPSEA4

Kalter - Redirect

1 an e-mail from Tommy Reynolds. That's the consultant, right?

2 A. I see it.

3 Q. And it says: "Gil did a great job"?

4 A. I see it.

5 Q. I just wanted you to know that.

6 A. Thank you. It's the first time I'm hearing that. I read
7 those bullet points well.

8 MR. SHECHTMAN: I have no further questions.

9 THE COURT: Okay. Any redirect?

10 MR. CAPONE: Briefly, your Honor.

11 THE COURT: Okay.

12 REDIRECT EXAMINATION

13 BY MR. CAPONE:

14 Q. Mr. Kalter, do you recall being asked questions on
15 cross-examination about whether retirement funds sometimes
16 invest in hedge funds like Platinum?

17 A. Can you remind me what the questions were?

18 Q. Well, I'll just ask it this way. Are you aware of the
19 investor composition of the PPVA?

20 A. Not really.

21 Q. Are you aware of whether there were retirement funds
22 invested in the PPVA, other than COBA?

23 A. I don't believe there were, but I can't recall for sure.

24 Like -- because it's the same thing over. I don't -- I don't
25 remember having access or seeing their investor roster.

HAQPSEA4

Kalter - Redirect

1 Q. Okay.

2 A. So I don't really know.

3 Q. Okay. And you were asked questions about -- a few
4 questions about brokers or placement agents; do you recall
5 that?

6 A. Yes.

7 Q. Was it your testimony that it's your understanding that
8 such a person needs to be licensed to receive commission-based
9 payment from a fund?

10 A. Yeah, they need to be licensed to receive incentive-based
11 compensation, I think is the term, but I could be butchering
12 that also. But the idea is the linked income to the management
13 company needs to be some sort of license.

14 Q. During your time at Platinum, were there times where
15 individuals who weren't licensed asked you for a commission
16 for -- to be able to receive a commission to refer business to
17 you?

18 A. Yes.

19 Q. What did you respond in those circumstances?

20 A. I told them that I didn't know of a way that we can do
21 that. If they were insistent, I'd offer them to speak to
22 either outside counsel or internal counsel and try to hash it
23 out with them, who was more familiar with the rules. But in my
24 experience, anybody who asked me, we weren't able to come up
25 with a structure without them sitting for an exam.

HAQPSEA4

Kalter - Redirect

1 Q. Are you aware of an individual named Ned Siegel?

2 A. Yes.

3 Q. And who is that?

4 A. He was on some sort of advisory board that Platinum had set
5 up, and he was a former Ambassador to, I think, the Bahamas.

6 Q. Did there come a time where he, to your knowledge, wished
7 to refer investors to Platinum?

8 A. Yes.

9 Q. What, if you know, what happened with that?

10 A. I put him in touch -- or I put his counsel in touch with
11 our counsel. I believe it was somebody internal, and he
12 liaised with external counsel. And before I left, I had told
13 Ambassador Siegel that I don't have a structure, and we left it
14 to the lawyers to figure it out, and I never heard more about
15 it.

16 (Continued on next page)

17

18

19

20

21

22

23

24

25

HAQJSEA5

Kalter - direct

1 Q. Do you recall in your experience at Platinum any time where
2 you or anyone else you knew of devised any plan to pay
3 unlicensed brokers in violation of any legal rules?

4 A. I do not.

5 Q. Even any conversations about it?

6 A. Not that I recall, but again we are talking about a lotta, a
7 lotta years and a lotta, lotta conversations.

8 Q. Do you recall any conversations in connection with the COBA
9 investment about Jona Rechnitz serving as a placement agent or
10 broker?

11 A. I do not.

12 Q. You were also asked questions about redemptions in the
13 PPVA?

14 A. Yeah, I believe so.

15 Q. To be clear, do you have a significant recollection or
16 knowledge base with respect to the level of redemptions in the
17 PPVA in the 2014-2015 time period?

18 A. I can tell you what we read on email today.

19 Q. Independent of that?

20 A. Can you ask me the question one more time.

21 Q. Yes. Do you have an independent recollection of the
22 significance or lack thereof of redemptions in the PPVA in that
23 time period?

24 A. I remember there were redemptions, but I don't know, I
25 don't know how significant or not those were based on the size

HAQJSEA5

Kalter - direct

1 of the funds and Mr. Nordlicht's ability, like we went through
2 on cross, the ways to come up with cash.

3 Q. And you were also asked about when the Platinum office
4 moved, whether Mr. Huberfeld took office space in the new
5 office on 55th Street?

6 A. Yes, I recall that.

7 Q. You said he didn't?

8 A. I don't think he had an office in the new office.

9 Q. Do you know where he worked at that point?

10 A. Yes, he moved to another investment that Mr. Huberfeld had
11 been part of putting together. He moved in with that company.

12 Q. What was that called?

13 A. It was called Beechwood.

14 Q. Finally, you were asked questions about the legal
15 negotiations of side letters and you were also refocused on
16 something that I had highlighted to you which is a provision
17 about investors being able to bear the economic risk of loss of
18 their entire investment?

19 A. Yes.

20 Q. Do you recall that?

21 A. I recall that.

22 Q. Is that, in your experience, a provision that Platinum ever
23 agreed to waive?

24 A. I don't know of any instances where it was agreed to waive,
25 but I don't know --

HAQJSEA5

1 MR. MAZUREK: That calls for speculation.

2 THE COURT: Overruled.

3 A. -- I don't know of any instances where that provision was
4 waived. I certainly would never waive that provision.

5 Q. Why not?

6 A. Because that provision is something that as the fund
7 manager, you want to make sure that people not only recognize
8 that they can lose money, but you don't want to lose somebody's
9 last dollar. If you're losing the last dollar, they shouldn't
10 be invested in hedge funds.

11 MR. CAPONE: Nothing further.

12 MR. MAZUREK: Nothing further.

13 THE COURT: The witness is excused.

14 (Witness excused)

15 MR. CAPONE: Before calling our next witness, I have a
16 few exhibits I want to move into evidence and publish that are
17 independent of any given witness.

18 THE COURT: All right. Have you given the defense
19 notice of them and is there any objection to them?

20 MR. CAPONE: These are the emails that have been the
21 subject of prior --

22 THE COURT: I want to make you sure we have the
23 numbers together so we can have the record complete.

24 (Off-the-record discussion)

25 MR. CAPONE: At this point the government moves into

HAQJSEA5

1 evidence Government Exhibits 1002, 1003, 1006, 1007 and 1041.

2 THE COURT: Is there any objection to them?

3 MR. MAZUREK: No, your Honor.

4 THE COURT: Any objections?

5 MR. SHECHTMAN: None.

6 THE COURT: Those are in.

7 (Government Exhibits 1002, 1003, 1106, 1007 and 1041
8 received in evidence)

9 MR. CAPONE: I want to publish those and read from
10 them. It is Government Exhibit 1002. It is an email from Mark
11 Nordlicht to Huberfeld at Gmail dot com, dated August 2, 2013,
12 the body of which reads: Please note subs versus reds. Need
13 for new direction is clear.

14 We can take that down and put up briefly Government
15 Exhibit 1003, which is a multipage attachment that we don't
16 have to go through today, but it is now in the record.

17 Ms. Bustillo, if we can put up Government Exhibit
18 1006. This is an email at the bottom of which is from Michael
19 Kimelman from Mark Nordlicht, Uri Landesman, SanFilippa and
20 Will Slota at 2013 redemptions dot X L S X. The body reads:
21 estimated year end redemptions attached. PPVA U.S. approximate
22 17 million. PPVA International, approximate 35 million.

23 I won't read the remainder of that bottom email.

24 The top email is a forward of this from Mark Nordlicht
25 to Murray Huberfeld, dated November 5th, 2013 at 7:35 pm.

HAQJSEA5

1 Subject forward 2013 redemptions, X. The body reads 50 million
2 and reds for Dec 31.

3 The attachment is Government Exhibit 1007, briefly put
4 that up.

5 MR. MAZUREK: May we have the whole email read? He is
6 only reading portions.

7 MR. CAPONE: I can read the whole email.

8 THE COURT: Let's have a quick sidebar.

9 (Continued on next page)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

HAQJSEA5

1 (At the sidebar)

2 THE COURT: I would like to move this along. Is there
3 a particular email you want read? I don't know if that is
4 necessary.

5 MR. MAZUREK: If it is in evidence. My only concern I
6 don't think it is fair he highlights certain portions. He has
7 opportunities to do that in argument. Let's move them in,
8 they're in and argue about them.

9 MR. CAPONE: I will happy to read the whole email.

10 THE COURT: I am not happy to read the whole email. I
11 would like to try to get the live witnesses.

12 MR. MAZUREK: I agree it. It is not fair if they only
13 reading portions.

14 THE COURT: Is there a particular portion?

15 What we can do, they're in evidence. He can read the
16 portions he wants to read. You can get up and read anything
17 else you want to read and let's get the witness on. Does that
18 work? Do you actually need to have the entire emails for all
19 of these documents read in?

20 MR. CAPONE: There is no more email after this.

21 THE COURT: So we can do that if there is something in
22 particular you want to read, they're in evidence. I will give
23 you a chance to get up and read a portion if you want to read.

24 Does that satisfy your concern?

25 THE COURT: Many of these emails he sifted through

HAQJSEA5

1 quickly. I don't think the jury is looking at some of them.

2 MR. MAZUREK: Let's just finish. I don't need to read
3 it. There is no other email?

4 MR. CAPONE: Just one more.

5 THE COURT: You withdraw that objection?

6 MR. MAZUREK: I withdraw.

7 THE COURT: So you are going to read this email. The
8 next witness will be about 10 minutes on direct?

9 MR. BELL: I think so, your Honor.

10 THE COURT: Yes?

11 MR. MAZUREK: Can I just confer?

12 THE COURT: Make it quick, though.

13 (Off-the-record discussion)

14 THE COURT: Do you want him to read the entire portion
15 of one particular email?

16 MR. MAZUREK: Yes.

17 THE COURT: Do that.

18 (Continued on next page)

HAQJSEA5

(In open court)

THE COURT: Go ahead, counsel.

MR. CAPONE: Ms. Bustillo, can we put 1003 back up -- excuse me -- 1006. Sorry about that. I will read the rest of the bottom email. I had read through PPVA International 35 million. The rest reads this includes Venus 20 million Ray Brenner 3.7 and Adam Brenner 8, which are likely to recant or move to PPCO. Amir Shaked is also in for 1 million and likely to recant.

CITGO, 190030, like Crescendo has a large redemption in for approximate 6.1 million.

JUROR: We are not seeing this.

THE COURT: It is not on the juror's screens. Hold on a second.

(Pause)

THE COURT: They have it.

MR. CAPONE: This includes venus 20 million, Ray Brenner, 3.7, and Adam Brenner, 8 which are likely to recant or move to PPCO. Amir Shaked is also in for 1 mil and likely to recant. CITGO 190030 likely crescendo has a large redemption in for approximate 6.1 mil. Please look at tab 123113 on attached Excel sheet for details.

The attached Excel is Government Exhibit 1007, which I will not read, but there it is.

Finally, if we can publish Government Exhibit 1041. I

HAQJSEA5

1 will read this email into evidence, the bottom of which is from
2 June 16th, 2014 at 4:16 pm from Uri Landesman.

3 He writes in PPVA, Sloan Well is supposedly money good
4 for 5 mil. We have another 1 to 2 mil prospect for July 1, and
5 about 500,000 of other likely August 1 doesn't have much
6 visibility yet in that fund. PPCO is all over the map, partly
7 because Shepard Kaplan is sort of fighting with one of their
8 clients as to the client investing in us through them or on
9 their own. We are not sure if SK's estimates that they are
10 giving us include or exclude that client. We have another 20
11 million prospect looking good for either July 1 or August 1.
12 Ergo, PPCO could be as much as 60 mil over the next two
13 closings. Zero is not out of the question, either.

14 The response is also Monday, June 16th, 2014, at 4:43
15 pm. It is from Uri Landesman -- sorry -- from Mark Nordlicht
16 to Uri Landesman, line copy to Murray Huberfeld, re prospects.

17 It reads okay, Schwebel already accounted to make up
18 for at least for some past issues. Let's talk in a little bit.
19 I think we need to revamp the strategy on PPVA and figure out
20 what to do. It can't go on like this or practically, we will
21 need to wind down. This is not a rhetoric thing, it is just
22 not possible to manage net outflows of this magnitude. I think
23 we can overcome this, but this is code red, we can't go on with
24 status quo. We need to be very aggressive if we can't to stay
25 open. We can't pay out 25 million in reds per quarter and have

HAQJSEA5

Joy - direct

1 5 come in. It just becomes almost impossible to manage asset
2 allocation among the different strategies. I really feel that
3 while we are still overloaded in energy, we are now diversified
4 in four different companies within energy which should make us
5 a bit more attractive hopefully. It feels like in PPCO we are
6 in decent shape because of SK, although clearly we want to
7 diversify there too.

8 We can take that down. Thank you, your Honor.

9 THE COURT: Call your next witness.

10 MR. BELL: The calls Captain Michael Joy.

11 MICHAEL JOY,

12 called as a witness by the Government,

13 having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. BELL:

16 Q. Good afternoon, Captain Joy. Where do you work?

17 A. I am work for New York City Police Department Strategy
18 Technology Division.

19 Q. I may have just spoiled this. What is your rank?

20 A. Captain.

21 Q. How long have you worked for the NYPD?

22 A. 15 years.

23 Q. Do you work for a particular part of the NYPD?

24 A. Yes, I am the executive officer for the Strategic
25 Technology Division.

HAQJSEA5

Joy - direct

1 Q. What is the Strategic Technology Division?

2 A. We are responsible for all major technology projects for
3 the New York City Police Department.

4 Q. What are your duties as executive officer of that division?

5 A. I supervise all personnel and I manage most of the projects
6 including our license plate recognition system, our mobility
7 initiatives, our body camera deployment projects as well as
8 most of our applications.

9 Q. You mentioned something a moment ago called a license plate
10 recognition system. Is that sometimes called LPR?

11 A. Yes.

12 Q. What is LPR?

13 A. LPR is a system that captures license plates as vehicles
14 move across their field of vision.

15 Q. How are you personally familiar with the LPR system?

16 A. I began that project as assigned to the counterterrorism
17 division probably close to 10 years ago in 2007. I oversee
18 that project generally on its day-to-day activities, ensure its
19 maintenance and I coordinate all new deployments and new
20 builds.

21 Q. What is a license plate recognition system?

22 A. An LPR is a series of cameras, so each unit consists of two
23 cameras that take photographs of every vehicle that crosses its
24 path.

25 Q. What information does it gather?

HAQJSEA5

Joy - direct

1 A. We capture the date, time and location as well as two
2 individual photographs of each vehicle.

3 Q. You mentioned two individual photographs. How many cameras
4 are there in each unit?

5 A. Two.

6 Q. How do they differ? Why two cameras?

7 A. One camera is an infrared camera. That camera is used to
8 detect if there is a license plate in its field of view. It
9 has a high contrast ratio and is able to identify characters
10 and text in what appears to be a plate.

11 The other camera is a standard color camera that gives
12 you a scene view so you can visually determine make, model,
13 color, direction of travel.

14 Q. On what occasions or with what events is data captured by
15 the LPR system?

16 A. Any time that it detects what it believes is a license
17 plate crossing its field.

18 Q. These LPR units, are they at fixed locations, at mobile
19 locations, or both?

20 A. Both.

21 Q. What can you tell me about where the fixed locations are
22 based?

23 A. We cover every vehicular crossing, exiting or entering into
24 the Island of Manhattan as well as line across Canal Street on
25 the financial district. We also cover make Verrazano Bridge,

HAQJSEA5

Joy - direct

1 Long Island Expressway and other major vehicular travels and we
2 have some sporadically placed within the financial district.

3 Q. And the mobile locations?

4 A. Mobile are affixed to the rear of police vehicles usually
5 scattered throughout the city.

6 Q. You mentioned the fixed locations a moment ago. You
7 mentioned crossings into Manhattan. Are those bridges and
8 tunnels?

9 A. Yes.

10 Q. Just to be clear, what information is located, is recorded
11 along with the photographs when two photographs are taken?

12 A. We take those photographs, we also append the date, the
13 time and the location and the what we call the asset, which is
14 the specific reader that took that photograph. We keep all of
15 that together.

16 Q. Does the LPR system capture every single vehicle that comes
17 into its path?

18 A. As long as it can identify or see a license plate.

19 Q. Under what circumstances might it not be able to see a
20 license plate?

21 A. If the license plate is obscured in some way, if it is
22 covered in ice or snow or a very dark tinted plate cover.

23 Q. On days when it is not actually snowing, is it very common
24 that LPR would miss one?

25 MR. SHECHTMAN: I object to the relevancy of this.

HAQJSEA5

Joy - direct

1 THE COURT: Overruled. Go ahead.

2 THE WITNESS: Repeat the question, please.

3 BY MR. BELL:

4 Q. Absent snow or ice, is it likely that LPR would miss one?

5 A. No.

6 Q. For how long does the NYPD retain the data recorded by LPR?

7 A. Five years.

8 Q. How are you, Captain Joy, able to access that data?

9 A. We use a system that we call the Domain Awareness System
10 that has access to all the former records.

11 Q. Have you accessed or have you run any particular queries on
12 that system that are the subject of your testimony today?

13 A. Yes.

14 Q. How many different vehicles did you run?

15 A. One.

16 Q. Was it for a particular time?

17 A. Yes, but I don't remember off the top of my head.

18 MR. BELL: We would like to at this point offer with
19 no objection Government Exhibits 1301 through 1306.

20 MR. SHECHTMAN: No objection.

21 MR. MAZUREK: No objection.

22 THE COURT: They're in.

23 (Government Exhibits 1301 through 1306 received in
24 evidence)

25 MR. BELL: Can we publish 1301, please.

HAQJSEA5

Joy - direct

1 BY MR. BELL:

2 Q. What is it that we are looking at right now, Captain Joy?

3 A. You're looking at a report from our Domain Awareness System
4 regarding a read from our license plate recognition system.

5 Q. What can you tell us about the date or time at which this
6 recording was done?

7 A. This photo was taken on December 11th, 2014, at 10:41 am.

8 Q. You mentioned the asset being a particular unit or
9 recorder. Where was this located?

10 A. This is located on the inbound lanes of the Third Avenue
11 Bridge.

12 Q. Are you familiar with that area?

13 A. Yes.

14 Q. What does inbound refer to?

15 A. Inbound refers to entering Manhattan.

16 Q. Reference is made to a specific vehicle here. What is the
17 license plate?

18 A. The license plate is GJC 7849.

19 Q. Referencing also made to a make and model, where does that
20 information come from?

21 A. That information comes from associated DMV registrations.

22 MR. BELL: Can we look at the bottom part of that
23 page, please, Ms. Bustillo. The bottom two boxes. Thank you.

24 BY MR. BELL:

25 Q. So the information that we are looking at right now,

HAQJSEA5

Joy - direct

1 Captain Joy, where does that come from?

2 A. This information comes from New York State DMV
3 registration.

4 Q. What is the registered owner of the automobile in question?

5 A. The Correction Officers Benevolent Association.

6 MR. BELL: There are other details there that I think
7 we needn't go through. Ms. Bustillo, if you can focus again on
8 the top half.

9 BY MR. BELL:

10 Q. Just briefly and in summary, what does this information
11 tell us happened involving this car?

12 A. It identifies the vehicle as GJC 7849 entered Manhattan via
13 the Third Avenue Bridge on December 11th, 2014 at 10:41 am.

14 Q. I want to direct your attention to the second page of the
15 exhibit. What do we have here, Captain Joy?

16 A. This is a map view of where that LPR is physically located.

17 Q. Is that what is indicated by the red marker?

18 A. Yes.

19 Q. Go to 1302. So is this another example of the same record?

20 A. Yes.

21 Q. Does it correspond with the same vehicle?

22 A. Yes.

23 Q. The same sort of summary question, Captain Joy. What does
24 this tell us happened regarding this vehicle?

25 A. It identifies the vehicle bearing license plays GJC 7849

HAQJSEA5

Joy - direct

1 went southbound on FDR Drive, which this reader is physically
2 located near the Brooklyn Bridge on December 11th, 2014 at
3 11:06 a.m.

4 MR. BELL: And there is a second page to this one.
5 Can we look at that Ms. Bustillo.

6 BY MR. BELL:

7 Q. First of all, are you familiar with the area depicted in
8 the map?

9 A. Yes.

10 Q. Where is that?

11 A. This is not far from this building, just on the southbound
12 lanes of the FDR Drive just before the Brooklyn Bridge.

13 Q. Does this correspond with your understanding of where that
14 fixed asset is?

15 A. Yes.

16 MR. BELL: So Ms. Bustillo, can we dispute up 1303,
17 please.

18 BY MR. BELL:

19 Q. The same set of questions, Captain Joy. What does this
20 record tell us happened involving this vehicle?

21 A. This record identifies vehicle bearing plate GJC 7849 going
22 northbound on the FDR Drive at the same area near the Brooklyn
23 Bridge on December 11, 2014 at 1:43 pm.

24 Q. You mentioned 1:43 pm. It says 1343 pm. What is that
25 about?

HAQJSEA5

Joy - direct

1 A. 1343 is the military time.

2 Q. Can we go to the second page, Ms. Bustillo.

3 Q. It looks to be about the same area. Does this correspond
4 with your area of where that as set is?

5 A. Yes.

6 MR. BELL: Why don't we pull up 1304, please.

7 BY MR. BELL:

8 Q. The same set of questions, Captain Joy. What does this
9 record tell us happened with this vehicle.

10 A. This identifies vehicle bearing plate GJC 7849 leaving
11 Manhattan via the Triboro Bridge on December 11th, 2014, at
12 3:30 pm.

13 Q. The Triboro Bridge outbound is referenced in the asset
14 field. What does that mean?

15 A. It means it was captured leaving Manhattan.

16 MR. BELL: Ms. Bustillo has put up the second page.

17 BY MR. BELL:

18 Q. Are you familiar with this area?

19 A. Yes.

20 Q. Where, generally, is it?

21 A. This is across 125th Street of Manhattan right above the
22 Randall's Island area on the Triboro Bridge.

23 Q. Does that correspond with your understanding as an
24 executive officer where that asset is located?

25 A. Yes.

HAQJSEA5

Joy - direct

1 MR. BELL: Ms. Bustillo, put up 1305.

2 BY MR. BELL:

3 Q. Now, Captain Joy, what time is referenced in this record?

4 A. 1809 or 6:09 pm.

5 Q. Does it refer to the same vehicle?

6 A. Yes.

7 Q. What does this record tell us that vehicle was doing on
8 December 11th, 2014 at 6:09:59 seconds pm?

9 A. That this vehicle reentered Manhattan via RFK Triboro
10 Bridge.

11 MR. BELL: Can we take a look at the second page, Ms.
12 Bustillo.

13 BY MR. BELL:

14 Q. So is it your understanding from this information that the
15 vehicle would have reentered Manhattan via the Robert F.
16 Kennedy Bridge at that time?

17 A. Yes.

18 MR. BELL: Let me direct your attention now to 1306.
19 Now, 1306, can you highlight the date and time field, Ms.
20 Bustillo. That is December the 11th, 2014 at 11:30:26 seconds
21 pm.

22 BY MR. BELL:

23 Q. What does the license plate reader system indicate happened
24 at that time?

25 A. That this vehicle bearing plate GJC 7849 exited Manhattan

HAQJSEA5

Joy - cross

1 via the RFK Triboro Bridge.

2 Q. Is that roughly at the same location you spotted it before?

3 A. Yes.

4 Q. Can we just go to once again that is the RFK Kennedy
5 bridge?

6 A. Yes.

7 Q. Now, in putting together these exhibits, did you run a
8 query for that day or was there some broader period of time?

9 A. No. I ran the query for that day.

10 Q. Are those the data points that came up as a result of that
11 query?

12 A. Yes.

13 Q. Were there any others, to your knowledge?

14 A. No.

15 MR. BELL: One moment, please. No further questions
16 for Captain Joy.

17 THE COURT: Any cross-examination?

18 MR. SHECHTMAN: Very briefly, your Honor.

19 CROSS-EXAMINATION

20 BY MR. SHECHTMAN:

21 Q. Captain Joy, just so we're clear, if someone lived in the
22 northeast section of the Bronx and they drove into Manhattan
23 over the Whitestone and Triboro, which I guess is now the RFK
24 or any other bridge, and they drove in and out of Manhattan
25 over those bridges, it wasn't snowing, the license plate wasn't

HAQJSEA5

1 obscured, your equipment was working, you should have pictures
2 for every other day just like the ones you showed in court
3 today?

4 A. Generally, yes.

5 Q. I think what you said was the only day you were asked about
6 was December 11th?

7 A. That is correct.

8 Q. So if Mr. Seabrook drove in and out every other day, you
9 would have pictures just like this?

10 A. Yes.

11 MR. SHECHTMAN: No other questions.

12 THE COURT: Any other cross-examination?

13 MR. MAZUREK: No, your Honor.

14 THE COURT: Any redirect?

15 MR. BELL: No, your Honor.

16 THE COURT: The witness is excused.

17 (Witness excused)

18 THE COURT: Government may call its next witness.

19 MR. BELL: Your Honor before we call our next witness,
20 there is a stipulation we would like to read into the record.

21 THE COURT: Okay.

22 MR. CAPONE: I am reading from what is marked as
23 Government Exhibit 1502. It reads:

24 It is hereby stipulated and agreed by and among the
25 parties that if called to testify, custodians of records from

HAQJSEA5

1 the reference below would testify that

2 1. Government Exhibit 202 contains true and accurate
3 copies of records of the airlines reporting corporation.

4 2. Government Exhibit 203 contains true and accurate
5 copies of records of Executive Travel Exchange Ltd. depicting
6 trips booked by Jona Rechnitz through Executive Travel
7 Exchange, Ltd. on the dates, airlines and routes indicated in
8 the exhibit and for the costs indicated in the exhibit.

9 3. Government Exhibit 204 contains a true and
10 accurate invoice from the national event company.

11 4. Government Exhibit 205 contains true and accurate
12 copies of records of Southwest Airlines.

13 5. Government Exhibits 206 and 206 A contain true and
14 accurate copies of records of jet select aviation.

15 6. Government Exhibit 207 contains true and accurate
16 copies of records of Delta Airlines.

17 7. Government Exhibit 209 contains true and accurate
18 copies of records of Virgin Atlantic Airlines.

19 Government Exhibit 210 contains true and accurate
20 copies of records of Great Seats, Ltd.

21 It is further stipulated and agreed that this
22 stipulation, which is Government Exhibit 1502, as well as
23 Government Exhibits 202 through 207, 209 and 210 may be
24 received in evidence as government exhibits at trial. Your
25 Honor, the government moves this stipulation, 1502, as well as

HAQJSEA5

Rechnitz - direct

1 Government Exhibits 202 through 207, 209 and 210 into evidence.

2 THE COURT: That is in.

3 (Government Exhibits 1502, 202 through 207, 209 and
4 210 received in evidence)

5 MR. BELL: Your Honor, the government calls Jona
6 Rechnitz.

7 JONA SOLOMON RECHNITZ,

8 called as a witness by the Government,

9 having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. BELL:

12 Q. Good afternoon, Mr. Rechnitz.

13 A. Good afternoon.

14 Q. Where were you born?

15 A. Los Angeles, California.

16 Q. Where do you live now?

17 A. Los Angeles, California.

18 THE COURT: Let me ask the witness to lean into the
19 microphone so we can hear you. Can the jury hear okay? Keep
20 your voice up.

21 BY MR. BELL:

22 Q. I will try to lead by example, Mr. Rechnitz.

23 How old are you now?

24 A. I'm 34 years' old.

25 Q. Are you married?

HAQJSEA5

Rechnitz - direct

1 A. I am.

2 Q. Do you have children?

3 A. Yes.

4 Q. How many children do you have?

5 A. Five children.

6 Q. How would you describe your childhood, sir?

7 A. Happy childhood, I was blessed with two sets of
8 grandparents, great grandmother who was very involved with my
9 life growing up, good friends, nice family.

10 Q. And your parents?

11 A. My parents, yes, I was very close to my parents growing up
12 and still am.

13 Q. How would you describe the circumstances of your
14 upbringing?

15 A. Thank God I had a privileged childhood. I was able to
16 attend private school and went to summer camps, never had to
17 work to help out at home. Vacationed.

18 Q. What did your father do for a living?

19 A. Real estate, real estate developer.

20 Q. And your mother?

21 A. Interior decorator.

22 Q. What was the nature of your father's real estate business?

23 A. He did mixed used developments, residential and commercial
24 properties for the most part.

25 Q. Did you understand that business to be successful?

HAQJSEA5

Rechnitz - direct

1 A. Yes.

2 Q. By what measures was it successful?

3 A. People would seek his advice often. We were involved in
4 the community. I saw my family name in a lot of places of
5 importance.

6 Q. What did you understand your father's status within the
7 community to be?

8 A. Prominent.

9 Q. By what measures?

10 A. Again he would donate to a lot of causes. He was involved
11 with many organizations. He was involved in the community.
12 People would call him all the time for favors and help.

13 Q. How far did you get in school, Mr. Rechnitz?

14 A. Masters of science in business marketing through college.

15 Q. Where did get that degree?

16 A. Yeshiva University.

17 Q. Roughly when?

18 A. 2005 or 6.

19 Q. What did you do after you got that describe from Yeshiva
20 University?

21 A. I went on to the New York University School of Continuing &
22 Professional Studies, for a graduate certificate in real
23 estate.

24 Q. Did you finish that certificate?

25 A. No, I did not.

HAQJSEA5

Rechnitz - direct

1 Q. Did you do anything else at the same time that you were
2 pursuing that certificate?

3 A. Yes, I was working at Marcus and Millichap as broker's
4 assistant.

5 Q. What was Marcus and Millichap?

6 A. A real estate investment firm, a brokerage firm. I
7 represented buyers and sellers of real estate sales.

8 Q. What were your job responsibilities while you were a
9 broker's assistant?

10 A. Anything from pouring coffee to helping draft setups of
11 properties and cold-calling, just calling various landlords and
12 trying to get their business to sell their real estate.

13 Q. You mentioned setups before. What are those?

14 A. They're basically sheets that were sent out on a property
15 giving the description of the property with the for sale
16 information on it.

17 Q. How long did you have that job with Marcus and Millichap?

18 A. About a year.

19 Q. What did you do after that?

20 A. After that, I went on to work in an existing company Broad
21 Realty. I opened a Commercial Division called Broad
22 Properties.

23 Q. What was Broad Properties?

24 A. Broad Properties was the Commercial Division, the same
25 thing sort of Marcus and Millichap on a much smaller scale. I

HAQJSEA5

Rechnitz - direct

1 tried to start a new group within an existing company.

2 Q. What were your tasks as you tried to start that new group?

3 A. I had to build a team. I had to deal with some HR issues,
4 hire personnel, again cold call and try and get listings,
5 meaning try to get people to sell their real estate and
6 represent them so we can make commissions.

7 Q. How long did you have that job with Broad Properties?

8 A. About a year, I think.

9 Q. Mr. Rechnitz, how would you characterize your lifestyle at
10 that point in your career?

11 A. I was a newly-married couple. We were being supported by
12 my father and father-in-law. I had to submit a budget to them
13 basically showing all my expenses. They could figure out what
14 my experiences were. It was like a newly-married couple being
15 supported by parents.

16 Q. Did there come a time you left Broad Properties?

17 A. Yes.

18 Q. Approximately when?

19 A. I believe it was 2007.

20 Q. What did you leave Broad Properties to do?

21 A. I started working for a company called Africa Israel.

22 Q. What was Africa Israel?

23 A. Africa Israel was a publicly-traded company on the Tel Aviv
24 Stock Exchange which had a U.S. subsidiary called Africa Israel
25 USA, which was a real estate company.

HAQJSEA5

Rechnitz - direct

1 Q. Is it the subsidiary the entity you worked for?

2 A. Yes.

3 Q. What was the business of the subsidiary Africa Israel USA?

4 A. They were primarily residential luxury developers. They
5 also got a little bit into the commercial office business, but
6 they would by trophy properties, very expensive properties
7 across New York.

8 They had a couple of investments in South Carolina and
9 Florida, but other than that, primarily in New York and a
10 little in California.

11 Q. From roughly when to roughly when did you work for Africa
12 Israel USA?

13 A. 2007 until the end of -- until 2011.

14 Q. What was your first job with Africa Israel USA?

15 A. I was assistant to the CEO.

16 Q. Who was the CEO?

17 A. Rotem Rosen.

18 Q. What were your responsibilities when you started out
19 working for Mr. Rosen?

20 A. So it was a very small office at the time. There were only
21 three or four of us, so we kind of did a little bit of
22 everything. I attended all the meetings or many important
23 meetings with the CEO. I would do anything from pour his
24 coffee, get his dry cleaning, to sitting with large developers
25 and negotiating deals and working on a lot of the paperwork

HAQJSEA5

Rechnitz - direct

1 that was necessary for deals.

2 Q. Was there a lot of copy work to do generally in New York
3 real estate?

4 A. I think so.

5 Q. Did you advance within that organization?

6 A. I did.

7 Q. What was your ultimate job, your final job with Africa
8 Israel USA?

9 A. I ended up being the director of acquisitions and
10 dispositions for the company.

11 Q. About when did you become director of acquisitions and
12 dispositions?

13 A. I think it was in 2009.

14 Q. What did that work involve?

15 A. I had the responsibility of selling the company's portfolio
16 as they were starting to liquidate a bit. The market had
17 crashed and they had paid high prices for the properties which
18 they've owned, and I was in charge of kind of selling the
19 properties and still looking for new opportunities, though most
20 of my efforts were focused on selling for the company.

21 Q. What sorts of connections did you make during your time at
22 Africa Israel USA?

23 A. Some very significant connections. We were a company that
24 had just spent several billion dollars in New York real estate.
25 I was the guy selling that product for less than our cost.

HAQJSEA5

Rechnitz - direct

1 There were a lot of people who sought after these properties,
2 and I was the guy they had to deal through, so I made some
3 significant relationships in who's who in real estate.

4 Q. Did there come a time when you left Africa Israel USA?

5 A. Yes.

6 Q. Approximately when?

7 A. 2011.

8 Q. Why did you leave?

9 A. Well, we were liquidating, we weren't buying, so I saw the
10 writing on the wall, I felt it was a good time for me to
11 establish my own firm and try and make my own success at that
12 point.

13 Q. Did you do that?

14 A. Yes.

15 Q. What was the firm that you started?

16 A. It is called JSR Capital.

17 Q. What did the JSR stand for?

18 A. The first initial of my name, J for Jona, S for Solomon, R
19 for Rechnitz.

20 Q. What was JSR Capital's primary day-to-day business?

21 A. Real estate development, investment, development and
22 management firm.

23 Q. What sort of real estate properties was JSR Capital
24 involved in in the first few years?

25 A. We bought a property in the Bronx, medical office building,

HAQJSEA5

Rechnitz - direct

1 small asset. I was very involved in a building called the
2 Apthorp, A P T H O R P, Condominium, it was a residential
3 luxury condo.

4 THE COURT: You have got to speak up. We have to make
5 sure the jury can hear. Lean into the microphone a little bit
6 more.

7 THE WITNESS: Better?

8 THE COURT: Yes.

9 A. Residential luxury condominium, which I was actively
10 involved in buying and selling apartments and syndicating deals
11 in that property.

12 I bought a property in East Village, two townhouses
13 which we turned into 33 rental units, bought a building on
14 Madison Avenue, later on bought a building in Brooklyn, had
15 some other assets.

16 Q. You have mentioned a number of locations, Mr. Rechnitz,
17 within New York City. Is it fair so say you were focused on
18 the New York market at that time?

19 A. Yes, at that point in my career.

20 Q. Why were you focused on the New York market at that point
21 as opposed to Los Angeles where you had grown up?

22 A. I was living here. That was the market I wanted to make my
23 own mark in and I wanted to try to do things on my own rather
24 than just move back and work for my family.

25 Q. What sort of volume of real estate did you do in your first

HAQJSEA5

Rechnitz - direct

1 three or four years at JSR?

2 A. Pretty significant. I believe I purchased over a hundred
3 million dollars worth of property.

4 Q. Can you give us a sense of some of the more prominent
5 properties JSR was involved in. You mentioned Apthorp?

6 A. The Apthorp property called 238 Madison, which is a mix use
7 property which has retail tenants on bottom, some restaurants
8 and has residential apartments on top. We purchased it
9 primarily as a development site for condos.

10 Also the East Village property was a nice deal. We
11 knocked down again two townhouses, built up a 33 rental,
12 residential rental property building. In Brooklyn we bought a
13 very prominent property in the heart of Borough Park, which is
14 pretty famous for that neighborhood.

15 Q. How were you able to obtain the capital to purchase those
16 properties?

17 A. I worked with investors. I syndicate my deals.

18 Q. When you say you syndicate your deals, Mr. Rechnitz, what
19 does that mean?

20 A. I usually put a little of my own money in, if any, and I
21 raise the rest from friends and family or outside investors.

22 Q. How involved was your father in that business in the early
23 years of JSR, if at all?

24 A. He was not, only if I called him for some advice.

25 Q. Why wasn't he more involved in that?

HAQJSEA5

Rechnitz - direct

1 A. Again I wanted to try to establish myself independently
2 from my father.

3 Q. Over the first four years or so of JSR Capital, would you
4 say the business was successful?

5 A. Yes.

6 Q. By what measures?

7 A. Whenever I'd get a new deal, it wasn't so hard for me to
8 raise the money from investors. That was a big indication for
9 me. I had been written up more positively than recently, but I
10 was written up when I purchased properties, would appear in the
11 real estate publications. I would be able to call many big
12 players in town, and they'd answer the call, so I measured the
13 success that way.

14 Q. So you mentioned you measured the success of these in part
15 in terms of positive press, in terms of being written up. Why
16 was that important?

17 A. Because that's the way I believed at the time that the
18 world works, if you see your name in press and see it in print,
19 you must be doing well. If it he says he bought this building
20 and that building, people like to bet on a winner. If I go to
21 a meeting and show an article I was just written up, it says a
22 lot.

23 Q. Just to be clear, why was being a winner sort, bet on a
24 winner thing, why was being received as a winner important for
25 business?

HAQJSEA5

Rechnitz - direct

1 A. At the time it was very important to me to grow. I figured
2 it would take me to the next level. The more you buy, the more
3 money you make. If you have good investors and syndicate
4 deals, the more profit split you've got.

5 Q. What sort of charitable involvement did you have at this
6 point?

7 A. I had been involved in many charities in my local community
8 and abroad. I was very young when I was honored by an
9 organization on a major platform, received an award with
10 Governor Cuomo was there. In hindsight, I was too young for
11 that, but that is something I did again which I felt advanced
12 my career.

13 Q. How at all did this sort of specter of charity advance your
14 career?

15 A. There were a lot of people at dinner, a lot of
16 advertisements in the paper that showed my picture, had a nice
17 bio about me and a movie. I had fancy offices at the time that
18 were videoed for the dinner. Again marketing.

19 Q. How important were the connections you had made at African
20 Israel at this stage of your career?

21 A. They were significant.

22 Q. How were they significant?

23 A. First of all, some of the connections I made ended up
24 investing with me. There are attorneys I met through that that
25 worked there. I definitely knew a lot of more brokers in the

HAQJSEA5

Rechnitz - direct

1 marketplace that took me very seriously because I was the guy
2 who was at Africa Israel dealing with them. They felt I dealt
3 with them. It was some beneficial to my business.

4 Q. Now, are you familiar with an individual named Jeremy
5 Reichberg?

6 A. I am.

7 Q. Who was Jeremy Reichberg?

8 A. Jeremy was a friend of mine who I met as he was a police
9 liaison.

10 MR. BELL: I would like to publish perhaps just for
11 the witness --

12 MR. MAZUREK: No objection.

13 MR. SHECHTMAN: No objection.

14 (Multiple voices)

15 THE COURT: It is in.

16 (Government Exhibit 714 received in evidence)

17 BY MR. BELL:

18 Q. Mr. Rechnitz, your screen is working, right?

19 A. Yes.

20 Q. Can you see the individual depicted in what is in as
21 Government Exhibit 714?

22 A. I do.

23 Q. Who is that, sir?

24 A. Jeremy Reichberg.

25 Q. When did you first meet Jeremy Reichberg?

HAQJSEA5

Rechnitz - direct

1 A. I think I met Jeremy in around 2008 or 2007.

2 THE COURT: Continue to lean into the microphone.

3 THE WITNESS: 2008 or maybe 2007.

4 BY MR. BELL:

5 Q. Volume-wise that is perfect. Thank you.

6 How was it that you came to meet Mr. Reichberg?

7 A. A mutual friend introduced us.

8 Q. What were the circumstances of the introduction?

9 A. So this friend of mine who I was dealing with in Africa
10 Israel had a special license plate on his car that said,
11 "Sheriff."

12 When he came to meet me, he would park wherever he
13 wanted, and that is something I thought was pretty cool. It is
14 annoying to park in the city. I said I kind of want one of
15 those, and he told me well, actually, there is a guy I want to
16 introduce you to. There is a dinner taking place soon at a
17 restaurant with the NYPD football team. A lot of the
18 higher-ups in the Police Department will be at that dinner, and
19 if you contribute to their cause, they'll recognize you and
20 you'll get to know them and it would mean a lot for you.

21 So I arranged a donation, I think I gave \$5,000.00,
22 which is a significant amount of money, something I wanted
23 badly, and I went to the dinner and they presented me with a
24 plaque that said NYPD football team, had my name on it and I
25 started to get to know these guys a little bit and Jeremy.

HAQJSEA5

Rechnitz - direct

1 Q. Did you, in fact, meet Jeremy at that event?

2 A. Yes.

3 Q. Tell me about that meeting, what you remember of it.

4 A. He was very happy with the donation I gave. It made him
5 look good, made me look good, and we started to become friends
6 after that point.

7 Q. At that time what did you understand about Mr. Reichberg,
8 about who he was?

9 A. The liaison for NYPD.

10 Q. What did you that to mean?

11 A. I understood at the time he had an official position with
12 the New York Police Department as a liaison, go-between between
13 the Jewish community and the Police Department.

14 Q. Where did you understand Mr. Reichberg to live?

15 A. In Brooklyn, Borough Park.

16 Q. Did you develop a relationship with Mr. Reichberg?

17 A. I did.

18 Q. What was the appeal of getting to know Mr. Reichberg
19 better?

20 A. He had all these connections to police. At that point,
21 that was something that was very important to me. I didn't
22 know many people that had connections with police, growing up
23 in Los Angeles, and I thought this would be an awesome tool for
24 me personally and for my business.

25 Q. What were the reasons that you thought that getting to know

HAQJSEA5

Rechnitz - direct

1 somebody who knew the police would be useful to you?

2 A. Because people like access to things that they don't
3 normally get. I figured everybody always has an issue with
4 police, it could be a parking ticket, getting pulled over, it
5 could be needing security for something, and if I was the guide
6 they have to go through, that built a certain status and power
7 for me.

8 Q. Now, at the time that you met Mr. Reichberg, where were you
9 along the career path that we talked about before? Where were
10 you working?

11 A. I was rising, I was working for Africa Israel, one of the
12 more senior people there.

13 Q. Were there aspects of your job at Africa Israel that made
14 getting to know the police appealing?

15 A. Yes.

16 Q. What were those?

17 A. The chairman of the company of Africa Israel was privately
18 in the diamond business, and he had a store on Madison Avenue
19 that had a lot of protestors over the holidays, Valentine's Day
20 and other holidays, that would stand outside of his store and
21 disrupt customers from going inside.

22 This was a big headache for him, and the CEO of Africa
23 Israel wrote him and asked me if there is anything I can do
24 through the police. He felt they shouldn't be allowed to
25 protest outside of the business.

HAQJSEA5

Rechnitz - direct

1 So I brought it to the attention of Jeremy, and he
2 said, you know, there is definitely something we can do. Why
3 don't you get from the jewelry store a further donation for the
4 NYPD football team. I did. I think it was \$25,000, a huge
5 amount of money, and he said that he would make sure the
6 problem went away.

7 Q. Did anything come of that?

8 A. No.

9 Q. Now, did this relationship, this early relationship with
10 Mr. Reichberg turn into a lasting connection?

11 A. It did.

12 Q. Would you describe your relationship with Mr. Reichberg
13 over the first year or two.

14 A. Yeah, the relationship improved quickly. We would speak
15 often. We would check in probably daily or every other day,
16 and just issues always came up and he was always the guy to get
17 it done.

18 Q. Over that early period, what did you come to learn of the
19 relationships that Mr. Reichberg had with the NYPD officers?

20 A. He had very strong relationships. Even before I came into
21 the picture, I would say anybody who worked in his precinct
22 where he lives or Brooklyn South area was very tight with him.
23 He would call off and went to dinners together every so often.
24 He was on first-name basis with some of these guys.

25 Q. What sorts of things was Mr. Reichberg able to do with his

HAQJSEA5

Rechnitz - direct

1 police connections that you either witnessed or became aware
2 of?

3 A. First of all, he was able to arrange police escorts if we
4 ever wanted to get a ride in a cop car and beat traffic.

5 One time the chairman of Africa Israel was visiting
6 from Israel, and he landed on his private plane in Teterboro
7 Airport during rush hour. I called Jeremy and I said what can
8 we do because it would be good for me to impress this guy. And
9 Jeremy arranged for a private escort. We got to the Lincoln
10 Tunnel and one of the lanes completely blocked, and just the
11 chairman went to go through the lane by himself. He got to his
12 hotel in very short time period.

13 Q. Were you there at the time at the time this happened?

14 A. I was.

15 Q. Where were you within in the group that traveled through
16 the Lincoln Tunnel?

17 A. I rode in one of the cars. There were a couple of cars in
18 the entourage.

19 Q. What were you thinking, Mr. Rechnitz, as you rode through
20 the Lincoln tunnel unimpeded?

21 A. This is good, this will earn me a lot of points.

22 Q. Did you develop and understanding of how, of what sort of
23 mobilization of police efforts it took in order to shut down
24 that lane of the Lincoln Tunnel?

25 A. I realized it wasn't just going through one simple

HAQJSEA5

Rechnitz - direct

1 procedure because I remembered that the Port Authority which
2 controlled the area until the tunnel which is a shared police
3 responsibility between New York and New Jersey had taken us
4 until the tunnel and waived us off and a NYPD cop car met us
5 right when we left the tunnel. So it was a couple of different
6 hoops to go through.

7 Q. Now, what effects, if any, did your relationship with Mr.
8 Reichberg have on JSR Capital's real estate business as it
9 grew?

10 A. Well, again, there is a lot of people that I introduced him
11 to that I did business with that he helped out, so it was good
12 for me.

13 Q. What sort of help was Mr. Reichberg able to provide? Give
14 us an example or two.

15 A. If somebody had jury duty, he was able to somehow get them
16 off of that. If somebody got pulled over for a moving
17 violation, somehow he was able to handle that for them so that
18 they wouldn't get points on their license.

19 There were other small procedures, you know? A few
20 times friends of mine who had funerals, he arranged a police
21 escort to the cemetery and back, things of that nature.

22 Q. So what I want to do, Mr. Rechnitz, I want to direct your
23 attention now to about the middle of the year, early in the
24 year 2013. How had your relationship with Jeremy evolved
25 between that early point until 2013?

HAQJSEA5

Rechnitz - direct

1 A. We became very close. I even gave him space in my office
2 to conduct his business just to give him a place to go to every
3 day.

4 Q. By that time, Mr. Rechnitz, what did you understand that
5 business to be?

6 A. He had some expediting work he was doing for some of his
7 clients and people I referred him to. He was helping people
8 with some of the police stuff. Before meeting him, I
9 understood that he was somehow related to the diamond business,
10 but once I met him, the only business I saw was expediting and
11 police-related businesses.

12 Q. Mr. Rechnitz, you mentioned a couple of times there the
13 term expediting. For the uninitiated here, what did you
14 understand "expediting" to mean?

15 A. Basically when you want to build or you want to do some
16 construction to property in New York, you need to get the
17 proper permits in place, and some city agencies work very
18 slowly. So he claimed to know the commissioner and charge fees
19 to clients and got them approved on a much quicker basis than
20 it would have taken in the normal course without the
21 connections.

22 Q. Now, how did your relationship with the police evolve over
23 that same period of time?

24 A. Also we became one group. Jeremy, I would take him out for
25 dinner all the time and we would hang out often and we also

HAQJSEA5

Rechnitz - direct

1 became very friendly.

2 Q. When you say became very friendly with the police, what are
3 we talking about in terms of number of people, ranks?

4 A. The higher-ups in the Police Department, mostly chiefs and
5 inspectors and captains.

6 Q. What specific role, if any, did you have as compared to
7 Jeremy Reichberg when it came to dealing with the police?

8 A. Jeremy would deal with more of the details, if something
9 needed to be done, and I would be the guy to basically pay for
10 it. For example, if we wanted to go out for dinner, Jeremy
11 would make the arrangement, we would go, and I would pay.

12 If there were details to deal with in getting specific
13 tickets or whatever he needed to get rid of them, I would put
14 him in touch sometimes with people, and if money needed to be
15 paid, I would pay.

16 Q. What were the sorts of things you paid for for these police
17 at that point?

18 A. Dinners, meals, holiday gifts, things of that nature.

19 Q. Now, during the time that you -- you testified a moment ago
20 that you were able to put people in touch with Jeremy.

21 Did you understand that there were services that
22 Jeremy provided via the police or via the city that you weren't
23 involved in?

24 A. Can you please repeat the question.

25 Q. Sure. You testified a few minutes ago, Mr. Rechnitz, that

HAQJSEA5

Rechnitz - direct

1 you were able to get associates of yours, business associates
2 in some cases, favors via Mr. Reichberg. Were there
3 interactions of that sort that Mr. Reichberg had involving
4 people you didn't have -- business that didn't involve you?

5 A. Yes.

6 Q. Give me some examples of that.

7 A. He had people in and out of the office all the time that I
8 didn't recognize. He was carrying plans after meetings with
9 expediting, people who he told me he was working on cases for
10 them.

11 I didn't really get into the specifics of things that
12 didn't have to do with me, but he was constantly busy on the
13 phone with all different types of people.

14 Q. You mentioned meals and sporting events and the like with
15 police officials. Who did you and Mr. Reichberg get closest to
16 among the NYPD's friends?

17 A. James Grant was a very close friend, Eric Rodriguez, Jimmy
18 McCarthy, at one point Phil Banks, Michael Harrington, Andrew
19 Capool. David Colon was I think most of the people we became
20 friendliest with.

21 Q. Let me ask you about a number of those folks beginning with
22 I think you mentioned a Phil Banks. Who was he?

23 A. He was the chief of the NYPD.

24 Q. What did you understand that to mean?

25 A. He was the highest ranking uniformed officer in the New

HAQJSEA5

Rechnitz - direct

1 York Police Department.

2 Q. Did you come to develop an understanding of where his
3 offices were?

4 A. Yes.

5 Q. Where were his offices?

6 A. At 1 Police Plaza.

7 Q. There was also I think you made mention of someone named
8 James Grant?

9 A. Yes.

10 Q. Who was James Grant?

11 A. James Grant again was a friend who ended up becoming an
12 inspector in the Police Department. He had worked in Brooklyn
13 and now works -- well, worked in the Upper East Side.

14 Q. You also mentioned an individual named Michael Harrington.
15 Who was Mr. Harrington?

16 A. Yes, Mr. Harrington also was a friend who was the
17 right-hand man to Philip Banks.

18 Q. Did you have an understanding of what ranks or offices he
19 held?

20 A. He was a chief.

21 Q. You mentioned an individual named Eric Rodriguez. Who was
22 that?

23 A. Yes, I believe he also was a chief. He had worked in
24 Brooklyn, also just a friend.

25 Q. You mentioned, I believe, a McCarthy. Who was that?

HAQJSEA5

Rechnitz - direct

1 A. He was also a chief. He had worked in Queens and also was
2 a friend.

3 Q. You mentioned a Capool, I believe? Who was that?

4 A. Andrew Capool, I believe he was a chief. He was an
5 inspector when I met him. He also worked in Upper Manhattan,
6 was a friend as well.

7 Q. I believe that you also mentioned a David Colon. Who was
8 David Colon?

9 A. David Colon was a chief as well. He had worked in
10 Community Affairs with Phil Banks and in the Housing Division,
11 and he was a friend at that time.

12 Q. Did there come a time when you and Mr. Reichberg became
13 politically involved together?

14 A. Yes.

15 Q. How did that first happen?

16 A. So when Bill Thompson was running for mayor, we were
17 introduced to him through a friend named Fernando Mateo.

18 Q. Who was Fernando Mateo?

19 A. Fernando was a part owner of La Marina, which is a
20 restaurant on Dyckman in the Bronx, and he was a spokesperson
21 for the Hispanic Federation of Taxi & Limousine Drivers.

22 He was introduced to us by Chief Colon, and we met
23 with him. He was a mover and a shaker, and we decided to get
24 into the political game. We had the police going for us and
25 now it was time to get into politics.

HAQJSEA5

Rechnitz - direct

1 Q. When you say get into the political game, what were your
2 and Mr. Reichberg's goals at that point politically?

3 A. We'll fell into the whole concept of having power and
4 connections, and that was very important to me at that time.

5 Q. So I think you testified a moment ago that you met
6 Mr. Mateo when Bill Thompson was running for mayor?

7 A. Yes.

8 Q. What happened then?

9 A. I ended up donating the maximum that we were allowed to,
10 which was \$4,950.00 for me and for my wife as well, and then I
11 ended up bundling money for Mr. Thompson. We met him, which
12 means I reached out to friends and family to support his causes
13 as well, and we ended up raising a significant amount of money
14 for his campaign.

15 (Continued on next page)

16
17
18
19
20
21
22
23
24
25

HAQPSEA6

Rechnitz - Direct

1 Q. And you mentioned that you bundled money, I think you've
2 actually just explained that, but just to be clear, what's
3 bundling?

4 A. Again, bundling is where I get the credit for bringing a
5 big amount, a big chunk of money to the candidate, but I would
6 have to go out and raise that money from family and friends.

7 Q. What involvement, if any, did Mr. Mateo have with the
8 bundling and donating that you did?

9 A. So he was supposed to do it on his own, as well, but he was
10 also part of our group, and we were -- we had made it that we
11 would be one powerful group together, between him and us.

12 Q. So what happened after you donated to and bundled for
13 Mr. Thompson?

14 A. Unfortunately, he lost the primary.

15 Q. What happened after Mr. Thompson lost?

16 A. The winner, who was Bill de Blasio, was the new winning
17 horse, and Fernando came back to us and said: Guys, we've got
18 to continue. We built something strong here. I have an in
19 with Bill de Blasio. We're going to have respect. We're going
20 to have attention. Trust me, I've got the right guy. I'm
21 going to make a meeting. Let's get in.

22 Q. Now, to be clear, at this point, was the mayoral election
23 cycle still going on?

24 A. Yes.

25 Q. This was the 2016 cycle?

HAQPSEA6

Rechnitz - Direct

1 A. Yes.

2 Q. And what happened after Mr. Mateo talked up Mr. de Blasio
3 to you and Jeremy?

4 A. He arranged a meeting in my office with the head fund
5 raiser for Mayor de Blasio, named Ross Offinger.

6 Q. And what happened during that meeting with Ross Offinger?

7 A. Fernando, Jeremy and I met with Ross and said, we're one
8 group and we expect a lot of access and influence in the
9 office. We're going to become significant contributors, but we
10 want access. And when we call, we want answers. When we reach
11 out for things, we want them to get done. It was very
12 important and specifically stated at that meeting.

13 Q. After that was specifically stated in that meeting, what
14 was Mr. Offinger's response?

15 A. Okay. How much do you think you guys can get together?
16 And I had committed at that point, I think I said about 50 to
17 \$100,000.

18 Q. And did Mr. Reichberg and Mr. Mateo make commitments, as
19 well, or was that the group commitment? What else came out of
20 it?

21 A. That was my commitment with Jeremy, and Fernando had other
22 obligations and commitments to him, but Fernando was bringing
23 us to the table and sharing the credit of bringing us to the
24 table to Ross.

25 Q. Now, you mentioned that you wanted access. When were you

HAQPSEA6

Rechnitz - Direct

1 expecting to be able to cash in on that deal for access?

2 A. Could you please repeat the question?

3 Q. Sure. You said that you told Mr. Offinger, or that the
4 three of you told Mr. Offinger that you wanted access. Just to
5 be clear, when were you expecting that access to kick in?

6 A. From that moment until the mayor won and after the mayor
7 won.

8 Q. And so what sorts of benefits did you think that you would
9 be able to secure if and when Mr. De Blasio got elected?

10 A. My mind was limitless. Jeremy had told me in the days of
11 Giuliani, people made a fortune. I was focused on making
12 money, getting my name out there, becoming a big player in
13 town. So I figured maybe I'll buy an office building, and I'll
14 get the City as a tenant. Maybe I'll need to get special
15 permits to make residential developments. These types of
16 things occurred in my mind.

17 Q. What sorts of things, if there were any specific things,
18 did Mr. Reichberg speak to you about being able to do after the
19 election?

20 A. He told me that we would get on committees, we would get
21 prestige, people would have to go through him to get to the
22 mayor, and there's a lot of money to make doing that.

23 Q. What did you understand committees to refer to, sir?

24 A. The inauguration committee, the transition committee, and
25 there were other boards in New York that are prestigious

HAQPSEA6

Rechnitz - Direct

1 positions.

2 Q. Were those things appealing to you personally, as well?

3 A. Pardon?

4 Q. Were those things appealing to you personally, as well?

5 A. Yeah.

6 Q. Why?

7 A. Because. I'm in my late 20s or early 30s, and I'm going to
8 be on a board appointed by the mayor of New York. I thought
9 that was something to be proud of.

10 Q. Now, did Mr. Reichberg also discuss specific benefits that
11 you may be able to get in the future through your connections
12 with the NYPD?

13 A. Yes.

14 Q. What sorts of benefits were discussed?

15 A. Police chaplaincy.

16 Q. What did you understand a police chaplaincy to be?

17 A. That would be basically --

18 THE COURT: Again, just keep your voice up.

19 A. That's something which would give me a parking placard so I
20 could park where I wanted. You get a badge, if you get pulled
21 over. Things like that.

22 Q. Now, aside from the benefits that you've just articulated,
23 what did you understand a police chaplain to actually be?

24 A. A rabbi, a priest.

25 Q. And were you a rabbi or a priest?

HAQPSEA6

Rechnitz - Direct

1 A. No.

2 Q. To your knowledge, was Mr. Reichberg?

3 A. No.

4 Q. What was the reason why you and Mr. Reichberg were
5 discussing chaplaincy, despite your lack of a religious title?

6 A. Because it's something that we wanted.

7 Q. Now, did there come a time over that electoral cycle where
8 you developed a relationship with -- well, withdrawn.

9 What fund-raising did you actually do for the
10 de Blasio campaign over the remainder of 2013?

11 A. I think that we raised Mayor de Blasio the hundred thousand
12 that was promised.

13 Q. And how did you go about doing that?

14 A. Again, I gave the maximum of 4,950, my wife did, and then
15 we went to bundle the rest of the money.

16 Q. In the same way that you had for Mr. Thompson?

17 A. Yes.

18 Q. Did there come a time where you developed a relationship
19 with Candidate de Blasio himself?

20 A. Yes.

21 Q. Tell us about how that came to be.

22 A. Soon after I met Ross at the meeting, Bill de Blasio came
23 to my office, spent some nice time with me, gave me his
24 personal cell phone number on the back of his business card,
25 gave me his personal e-mail address, told me to call if there's

HAQPSEA6

Rechnitz - Direct

1 anything I need, always be in touch, and he really appreciated
2 my support and friendship.

3 Q. Did you, in the months that ensued, in fact, keep in touch
4 with Mr. de Blasio?

5 A. Yes.

6 Q. In what ways and to what degree?

7 A. I called his cell phone often.

8 Q. About how often would you say over the course of the
9 campaign?

10 A. At least once a week, if I have to guess.

11 Q. What would you talk about?

12 A. Different issues in the city. If he Winns, who he should
13 be appointing for certain positions, just talking and getting
14 to know one another. I e-mailed him on his personal e-mail.
15 We would chat. I'd go to events of his. He invited me to
16 events and put me in very good-seated areas.

17 Q. Would he pick up the phone?

18 A. Yes.

19 Q. Return calls?

20 A. Yes.

21 Q. Return e-mails?

22 A. Yes.

23 Q. During the campaign itself, did you ask Mr. de Blasio for
24 things going forward?

25 A. Yes.

HAQPSEA6

Rechnitz - Direct

1 Q. What sorts of things did you ask for before the campaign
2 was concluded?

3 A. I asked to be on a committee when he would win mayor, the
4 transition committee, and he said he would get back to me or
5 Ross would get back to me. Sorry, was your question before he
6 was mayor?

7 Q. Yes. Yes, it was.

8 A. So that was the only thing before he was mayor.

9 Q. I imagine that the election happened at one point,

10 Mr. Rechnitz. How did the election work itself out?

11 A. He won. He's the mayor of New York.

12 Q. Were you, in fact, able to get on those committees?

13 A. He put me on his inauguration committee.

14 Q. What is it do you understand that to mean?

15 A. Just a prestigious title. We had one meeting at the
16 offices of Kramer Levin, where they spoke to us about the
17 inauguration and what it would be about.

18 Q. Did you do much of anything on that committee?

19 A. No.

20 Q. Did you have to?

21 A. No.

22 Q. In the weeks after Mr. de Blasio's electoral victory, what
23 sort of a relationship did you have with Mr. Offinger?

24 A. He would call whenever they needed money, or I would call
25 him whenever we had an issue.

HAQPSEA6

Rechnitz - Direct

1 Q. Let's take those one at a time. When he called, what was
2 the nature of your response?

3 A. I was the yes man. I always gave money, as long as I was
4 seeing him produce results.

5 Q. And what happened when you would call Mr. de Blasio in the
6 weeks when he was mayor elect?

7 A. He took my calls. I mean, we were friends.

8 Q. You mentioned that you got appointed to the inauguration
9 committee. What, if anything, happened with Mr. Reichberg
10 after the election?

11 A. He was appointed as well. I wanted to be on the transition
12 committee, but they didn't want to put Jeremy on; so I said,
13 then I'm not going to go on.

14 Q. Did you develop an understanding of why they didn't want to
15 put Jeremy in the transition committee?

16 A. They said that he was a name that was getting published in
17 the papers, and they wanted diverse criteria of individuals on
18 it, and that he didn't meet the criteria.

19 MR. BELL: Now, I want to publish and perhaps simply
20 offer Government Exhibit 702.

21 THE COURT: So are you offering it?

22 MR. BELL: One moment.

23 MR. SHECHTMAN: No objection, your Honor.

24 MR. MAZUREK: No objection, your Honor.

25 MR. BELL: I kind of figured. In that case, your

HAQPSEA6

Rechnitz - Direct

1 Honor, we offer 702.

2 THE COURT: Okay. It's in. You may publish that.

3 MR. BELL: Can we publish that?

4 THE COURT: Yes.

5 (Government's Exhibit 702 received in evidence)

6 THE COURT: Hold on. Does the jury have it?

7 MR. BELL: I think the speed is getting faster.

8 BY MR. BELL:

9 Q. Mr. Rechnitz, what are we looking here, at Government
10 Exhibit 702?

11 A. This was a photo that was taken at one of Bill de Blasio's
12 events.

13 Q. Can you walk us through who we see?

14 A. Fernando Mateo, Jeremy Reichberg, Mayor de Blasio and me.

15 Q. Now, after the election took place, to your knowledge, what
16 became of Mr. Offinger?

17 A. He was the head fund raiser for Mayor de Blasio.

18 Q. And did he, in fact, have the sort of pull within City Hall
19 that you hoped for?

20 A. Yes.

21 Q. How did you come to realize that?

22 A. Whenever we would call him for access or for a favor, we
23 were getting the response that we expected and the results we
24 were expecting.

25 Q. What sorts of things did you call for for Mr. de Blasio

HAQPSEA6

Rechnitz - Direct

1 just in the weeks after the election?

2 A. Over time, after he won.

3 Q. After he won, then going into 2014, what sorts of things
4 did you call Mr. Offinger for?

5 A. Many things. There was a property in Ocean Parkway, which
6 a friend of mine owned, and he called me to tell me that they
7 tried to sell the building previously, but there was a local
8 police precinct that had previously identified that property as
9 a desirable property for the new precinct they were building.

10 And there's some law in this city that if a police
11 precinct designates your property, they kind of get a shot to
12 match whatever offer you have from a potential purchaser. And
13 they were in deep negotiations to sell that property and wanted
14 to make sure that -- they heard rumors that the Police
15 Department was interested in that property.

16 So I called Ross, and I told him to find out and to
17 get an immediate answer if this is a property that was on the
18 agenda of the Police Department.

19 My wife's cousin had a school in the east side, which
20 she was closing up at the end of the school year, and after
21 many years of occupying that property, she received a notice
22 that she had to close a month earlier due to some code
23 deficiency. And I had Jeremy deal with the details with Ross,
24 but it was very important to get them to delay the closing of
25 her school by a month.

HAQPSEA6

Rechnitz - Direct

1 I asked him to put a friend of mine on a committee for
2 the City of New York.

3 Q. What did you understand that to be, Mr. Rechnitz?

4 A. I don't understand your question.

5 Q. What did you understand the committee for the City of
6 New York, the entity you mentioned a moment ago, to be?

7 A. Some committee where he's a representative for the City of
8 New York.

9 Q. Okay.

10 A. A friend of mine had an issue with some water bill on a
11 property. Jeremy spoke to Ross about fixing that issue.

12 Important to me was, on one of my properties on
13 Madison Avenue, I had an issue. I was getting a lot of
14 violations from the city in reference to Airbnb. Airbnb is
15 basically when a landlord or a tenant rent out their apartment
16 on a nightly basis. So contractually, I had rented an
17 apartment to a tenant of mine. He was then renting it out on a
18 nightly basis and earning income.

19 The problem with that is if it's being operated as a
20 hotel, and I'm an apartment building, my building is not up to
21 code, for example not enough sprinklers, as if it was a hotel
22 use. And I was getting violations in the thousands of dollars,
23 and I didn't think that was fair. So I called Ross, and I told
24 him I wanted him to get me in front of the people who make
25 these decisions so that I don't have to keep paying these

HAQPSEA6

Rechnitz - Direct

1 expensive violations.

2 Q. Now, I want to direct your attention back to 2013 just for
3 a moment. Did you and Jeremy form similar relationships with
4 local politicians, other local politicians, with respect to
5 bundling and such?

6 A. Yes.

7 Q. Who else did you fund raise for?

8 A. We fund raised for --

9 THE COURT: Again, lean into that microphone.

10 A. We gave or -- well, we gave to Senatore Espaillat, some
11 local counsel people, and Rob Astorino.

12 Q. Who was Rob Astorino?

13 A. He was the county executive of Westchester County.

14 Q. And did you get to know him personally?

15 A. Yes.

16 Q. How were you introduced?

17 A. Fernando Mateo.

18 Q. Where did you first meet him?

19 A. In my office.

20 Q. And what happened during that meeting?

21 A. We met with Rob. Fernando lived in his district and
22 introduced us, told him that we're movers and shakers, and we
23 have the ability to financially back him. He had some talks at
24 that time that maybe he was one day going to run for Governor
25 and that it was a good guy to know.

HAQPSEA6

Rechnitz - Direct

1 And we met with him and Jeremy, or I told him of our
2 desire. We thought this was a good opportunity, that he could
3 appointment us maybe, or get us our chaplainship that we
4 desired, to become police chaplains for Westchester County.

5 Q. Now, to be clear, Mr. Rechnitz, where did you live at that
6 time?

7 A. Manhattan.

8 Q. Did you have anything to do with Westchester County?

9 A. No.

10 Q. To your knowledge, did Mr. Reichberg?

11 A. No.

12 Q. Was it your expectation that you'd be able to get
13 chaplaincies, notwithstanding that fact?

14 A. Yes.

15 Q. So what did Mr. Astorino say to you?

16 A. He said that he will talk to George Longworth, who is the
17 commissioner of the Police Department of Westchester County,
18 and that he would be in touch with us.

19 Q. What was your extent -- what was the extent of your
20 involvement in Mr. Astorino's fund-raising?

21 A. I raised some money for him, and I donated to him as well,
22 I think \$15,000, which is significant for a county executive
23 race.

24 Q. And did you, in fact, apply to become chaplain?

25 A. What do you mean apply?

HAQPSEA6

Rechnitz - Direct

1 Q. Well, did you become chaplain?

2 A. Yes.

3 Q. And what did that mean to you, becoming a chaplain?

4 A. It meant that I got my parking placard.

5 Q. Let me ask a better question. What did becoming chaplains
6 involve?

7 A. I didn't have to do anything.

8 Q. Now, other than fund raising, did you do other favors for
9 Mr. Astorino?

10 A. I did.

11 Q. Can you tell me about that?

12 A. Yes. He came to my office one day. He had known that my
13 office was on 47th Street, which is the heart of the Diamond
14 District and watches, and he brought me a picture of a watch
15 and asked me if I can find that watch for him, that he wanted
16 to buy it. It was a Rolex, and I told him I'm happy to give it
17 to him; he doesn't have to buy it.

18 And I called down to the -- to one of the stores that
19 I dealt with and asked them if they had the watch in stock and
20 how much it was. They said that they did, and I told him I
21 want to buy it for him, and he told me that he couldn't take it
22 as a gift. He had to pay something because that wouldn't be
23 allowed. It was a 7 to \$10,000 watch, if I remember correctly.
24 And I said: How much do you want to pay? And he said -- it
25 came out, either I told him or he told me, he paid one to

HAQPSEA6

Rechnitz - Direct

1 \$2,000, and I covered the rest of the watch.

2 Q. Now, during the time that you fund raised -- that you,
3 rather, Mr. Reichberg and Mr. Mateo fund raised for de Blasio
4 and Astorino, did you take any action to circumvent the
5 campaign contribution limits at that time?

6 A. I did.

7 Q. What did you do?

8 A. I worked with what's called straw donors.

9 Q. What did you do with straw donors?

10 A. A couple of people in my office, I had them write checks,
11 because I wasn't allowed to give more than 4950, and I
12 reimbursed them for those donations.

13 Q. How many times did you do that?

14 A. A handful.

15 Q. Did you get bundling credit for those donations?

16 A. I did.

17 Q. Was there a reason that you did that, other than the
18 bundling credit?

19 A. I did it for the credit. When I told Ross I'm going to
20 raise him a certain amount, I had a lot of pressure from him to
21 bring that amount in. So many times when he was even in my
22 office, I would tell them hold on. I would go and get a few
23 checks from people and then bring them in.

24 MR. BELL: Your Honor, I have about five minutes left
25 and I think we'll reach a logical break for the day. Is that

HAQPSEA6

Rechnitz - Direct

1 okay?

2 THE COURT: Yes. Go ahead.

3 MR. BELL: Thank you, your Honor.

4 BY MR. BELL:

5 Q. Mr. Rechnitz, I want to very briefly switch gears before we
6 conclude for the day. Are you testifying today pursuant to an
7 agreement with the government?

8 A. Yes.

9 Q. Pursuant to that agreement, have you pled guilty to any
10 crimes?

11 A. I have.

12 Q. What have you pled guilty?

13 A. To conspiracy to commit honest services fraud.

14 Q. At the time that you pled guilty to conspiracy to commit
15 honest services fraud, did you admit to certain conduct?

16 A. I did.

17 Q. And what kinds of conduct did you admit to?

18 A. Three buckets of conduct I admitted to.

19 Q. Tell us about the three buckets of conduct.

20 A. The first is buying gifts and giving gifts to public
21 officials and police in exchange for favors. The second one
22 was giving money to the mayor of New York in exchange for
23 favors. And the third was participating in a bribe scheme
24 between hedge funds and Norman Seabrook.

25 Q. And when you say participate in a bribe scheme, maybe it

1 makes sense to start with that bucket. What was it that you
2 actually did?

3 A. I introduced Norman to the hedge fund. I negotiated the
4 terms of the amount of money that Norman would be paid for
5 investing in that fund, and I physically paid him for that
6 investment.

7 Q. And when you say Norman, who are you referring to?

8 A. Norman Seabrook.

9 Q. Is Mr. Seabrook in the courtroom today?

10 A. He is.

11 Q. And can you identify him perhaps by location and an item of
12 clothing?

13 A. He is sitting in the second table in a gray suit.

14 MR. BELL: Your Honor, recognizing the defendant,
15 Mr. Seabrook.

16 THE COURT: Okay.

17 Q. Who else, other than you and Mr. Seabrook, was involved in
18 what you describe as that bribe scheme?

19 A. Murray Huberfeld.

20 Q. Who was he?

21 A. He was a friend of mine who was the head of the hedge fund.

22 Q. I'll just ask you to speak up, sir.

23 A. A friend of mine who was the head of the hedge fund.

24 Q. And what was Mr. Huberfeld's involvement in this scheme?

25 A. He was the one I negotiated with, and he is the one who

HAQPSEA6

Rechnitz - Direct

1 reimbursed me for the payment I made to Norman.

2 Q. Is Mr. Huberfeld in the courtroom today?

3 A. He is.

4 Q. And can you identify him by location and what he's wearing?

5 A. He's at the same table as Norman, in a navy suit.

6 MR. MAZUREK: So is mine.

7 Q. There are a number of navy suits there. Could you be a
8 little more specific there?

9 A. A striped navy, striped tie, white lines.

10 MR. BELL: Your Honor, identifying Mr. Huberfeld.

11 THE COURT: Okay.

12 Q. Now, with respect to that kickback conspiracy, can you tell
13 us what you specifically did in order to facilitate that bribe
14 scheme?

15 A. I made a cash payment of \$60,000 to Norman, and I was
16 reimbursed for laying out that money by Platinum with a fake
17 Knicks tickets invoice for \$60,000.

18 Q. How was the agreement behind the scheme reached?

19 A. Pardon?

20 Q. Was there an agreement in order for that payment to happen?

21 A. Yes.

22 Q. Who was the agreement between?

23 A. I was the middleman, go-between between Murray Huberfeld
24 and Norman Seabrook.

25 Q. And when you say you were the middleman, what do you mean

1 by that?

2 A. I'm the one who introduced them. I'm the one who
3 negotiated the amount that Norman would be paid from Murray,
4 and I'm the one who dealt with that aspect of their dealings
5 until investments were made.

6 MR. BELL: One moment, your Honor.

7 Q. You mentioned an entity called Platinum, what was that?

8 A. Hedge fund.

9 Q. And what did you understand Mr. Huberfeld's relationship to
10 the hedge fund to be?

11 A. The head of the fund, one of the partners.

12 Q. And, finally, Mr. Rechnitz, you mentioned that you and
13 Mr. Huberfeld had been friends. How far back did you know him?

14 A. Well, when I was a child, we often vacationed over the
15 holidays in similar places, but I really got to know him when I
16 was living in New York.

17 MR. BELL: Your Honor, that may be a logical place to
18 break for the day.

19 THE COURT: Okay. Members of the jury, we're going to
20 break for the day. Let me give you the usual instruction.
21 Again, do not read anything about this case. If you see
22 anything about this case in writing, stop reading it. Do not
23 listen to anything about this case. If you are to hear
24 anything over the radio or television or internet about this
25 case, stop listening.

HAQPSEA6

Rechnitz - Direct

1 Do not do any independent research regarding any of
2 the issues or people involved in this case. Do not talk to
3 anyone about this case. Don't allow anyone to talk to you.

4 The other thing is for tomorrow, in terms of
5 scheduling, we're going to go a little bit shorter tomorrow.
6 We're going to break at 2:00 tomorrow. So it is very important
7 that you get here at 9:00 a.m. Not only for tomorrow but going
8 forward it's important to get here at 9:00 so that we can start
9 on time. Okay? So please get here at 9:00 a.m. No one is
10 going to be upset if you get here at 8:45. That's fine, too.
11 Let's try to get here at 9:00 and no later than 2:00 tomorrow.
12 Have a wonderful evening, and we'll see you tomorrow.

13 (Jury not present)

14 THE COURT: Okay. You can be seated again. Let's
15 give the jurors a three-and-a-half minute head start.

16 (Pause)

17 MR. BELL: Your Honor?

18 THE COURT: Hold on. I mean, we have a witness here.
19 The witness is here. I don't know if we should discuss this in
20 front of the witness.

21 MR. BELL: Can we discuss something very quickly in
22 the robing room then? It's a little unusual, given that the
23 jury is not here, but I think it's important, and it's time
24 sensitive.

25 THE COURT: Okay.

HAQPSEA6

Rechnitz - Direct

1 (At the side bar)

2 THE COURT: Okay.

3 MR. CAPONE: Your Honor, obviously, there are a number
4 of sensitivities, given the different families and everything
5 involved. There's a report that I got from Mr. Kalter's
6 counsel that he was sort of accosted outside earlier by
7 somebody, not physically, but verbally. I just ask, before the
8 audience leaves, that the Court let the witness leave and get
9 out of here.

10 MR. BELL: He's been subject to some number -- some
11 amount of contact from folks, known and unknown, over the last
12 few weeks that I think is further animated by what Mr. Capone
13 just related; so we'd really appreciate it.

14 THE COURT: Defense have any thoughts on that?

15 MR. SHECHTMAN: Perfectly happy to let him go, Judge.
16 I have to say, I don't think the reports are true, but I'm
17 perfectly happy to let him go.

18 THE COURT: To the extent that you can disclose it, is
19 the witness being escorted out by anyone or anything like that?

20 MR. BELL: Yes, your Honor.

21 THE COURT: Okay. So I mean, the witness can leave
22 out through this back door, if that's easier.

23 MR. BELL: Let's do that.

24 THE COURT: I'll let the witness go a little earlier.

25 MR. SHECHTMAN: That's fine.

HAQPSEA6

Rechnitz - Direct

1 THE COURT: In fact, we'll let the witness go first
2 out this back way.

3 MR. BELL: Great. Thank you, your Honor.

4 THE COURT: I guess while we're back here, is there
5 anything else we need to discuss?

6 MR. BELL: I don't think so, your Honor.

7 MR. SHECHTMAN: Nothing, your Honor.

8 (Continued on next page)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

HAQPSEA6

Rechnitz - Direct

1 (In open court)

2 THE COURT: Okay. So we're back on the record. So
3 the witness can be excused. You can go out that way, and
4 everyone can sit down. Everyone can sit down.

5 In terms of scheduling for tomorrow, obviously, this
6 witness is on the stand. Do we have a sense of how long it's
7 going to take? The direct of this witness may very well take
8 all day tomorrow, but where are we in terms of the government's
9 estimate for the rest of the direct?

10 MR. BELL: I think there's a fair chance that it takes
11 us through the rest of the day tomorrow, and I've got a pretty
12 good sense that even if it does not, the cross-examination
13 will. So I expect Mr. Rechnitz to be the sole witness that
14 takes us through the rest of -- well, the week is tomorrow, so
15 the rest of the week.

16 THE COURT: Okay. Just so I'm aware of where we are
17 scheduling-wise, who's next after Rechnitz? How much is left?

18 MR. BELL: As one might expect, after Mr. Rechnitz,
19 the witnesses come a little faster. There are a number of FBI
20 agent witnesses who are short. There are a small handful of
21 other representatives of the union, who are of modest length,
22 certainly compared to Mr. Rechnitz. But this is, I think, the
23 part where things start to snowball some and pick up in pace.

24 THE COURT: Okay. Anything else from the defense on
25 any of this?

HAQPSEA6

Rechnitz - Direct

1 MR. SHECHTMAN: No.

2 MR. MAZUREK: No.

3 THE COURT: All right. I'll see counsel here
4 tomorrow. Let's get counsel here at 8:50, just to avoid any
5 unnecessary bumping into jurors. All right. I'll see you.

6 (Adjourned until October 27, 2017, at 9:00 a.m.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

INDEX OF EXAMINATION

Examination of: Page

GILAD KALTER

Direct By Mr. Capone 399

Cross By Mr. Mazurek 461

Cross By Mr. Shechtman 507

Redirect By Mr. Capone 510

MICHAEL JOY

Direct By Mr. Bell 522

Cross By Mr. Shechtman 532

JONA SOLOMON RECHNITZ

Direct By Mr. Bell 535

GOVERNMENT EXHIBITS

Exhibit No. Received

659 410

713 415

1016 416

1022 422

710 and 704 424

1034, 1038, 1046, 1049, 1050, 1057, 438

1060, 1068, 1069, 1070 and

1080

1079 446

1002, 1003, 1106, 1007 and 1041 516

1301 through 1306 526

1	1502, 202 through 207, 209 and 210	535
2	714	547
3	702	568
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		